GOVERNMENT OF INDIA
LEGISLATIVE DEPARTMENT

THE AJMER CODE

CONTAINING THE UNREPEALED

ENACTMENTS LOCALLY IN FORCE IN AJMER-MERWARA;

WITH

AN APPENDIX CONSISTING OF A LIST OF THE ENACTMENTS WHICH HAVE BEEN DECLARED IN FORCE IN, OR EXTENDED TO, AJMER-MERWARA BY NOTIFICATION UNDER THE SCHEDULED DISTRICTS ACT, 1874;

AND

A CHRONOLOGICAL TABLE AND AN INDEX

FIFTH EDITION

CALCUTTA: GOVERNMENT OF INDIA
CENTRAL PUBLICATION BRANCH
1931

Price Rs. 9-8 or 16s.

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PREFACE.

THIS, the fifth edition of the Ajmer Code, brings the local enactments in force in Ajmer-Merwara down to the end of 1930 It has been prepared on the same lines as the previous editions The Acts of the Governor General in Council and of the Indian Legislature which apply to Ajmer-Merwara in common with the rest of British India and other enactments which have been extended to the province by notifications issued under the Scheduled Districts Act, 1874 (XIV of 1874), are printed in the volumes of the unrepealed General Acts with the exception of the Indian Penal Code, the Code of Criminal Procedure and the Code of Civil Procedure which are published separately

A L BANERJEE,
Assistant Secretary,
Legislative Department,
Government of India.

SIMLA,
The 15th August, 1931.

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1806	XI	The Bengal Troops Transport and Travellers Assistance Regulation, 1806, ss 2 to 6, 8	Rep in part, Act 12 of 1891 and amended, Act 5 of 1897. Modified, Reg 3 of 1877	2
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[1] See s 3 and Sch. II of Reg III of 1877, *infra*.

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[1] *See* now s 71 of the Government of India Act, 1915 (5 & 6 Geo 5, c 61), which has repealed and re-enacted the Statute of 1870

[2] *This* short title was given by Notfn No 13 dated 11th October 1875, in Gazette of India, 1875, Pt I, p 529

[3] The identical amendment was made by Act 4 of 1914 and Reg 2 of 1914

PART III.—REGULATIONS MADE UNDER SECTION 1 OF THE [1]GOVERNMENT OF INDIA ACT, 1870 (33 VICT., CAP. 3), AND UNDER SECTION 71 OF THE GOVERNMENT OF INDIA ACT IN FORCE IN AJMER-MERWARA—*contd.*

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[1] *See* now s. 71 of the Government of India Act, 1915 (5 and 6 Geo. 5, c. 61), which has repealed and re-enacted the Statute of 1870.

PAGES

THE AJMER CODE.

PART I:

BENGAL REGULATIONS IN FORCE IN AJMER-MERWARA.

BENGAL REGULATION V OF 1799 [1]

(THE BENGAL WILLS AND INTESTACY REGULATION, 1799.)

[3rd May, 1799.]

A Regulation to limit the interference of the Zilla [2] * * * Courts of Diwani Adalat [3] in the execution of wills and administration to the estates of persons dying intestate.

[1] **4.** If there be more heirs than one to the estate of a person dying intestate, and they can agree amongst themselves in the appointment of a common manager, they are at liberty to take possession; and the Courts of Justice are restricted from interference without a regular complaint, as in the case of a single heir; **If there be more heirs than one to estate of intestate.**

but if the right of succession to the estate be disputed between several claimants, one or more of whom may have taken possession, the Judge, on a regular suit being preferred by the party out of possession, shall take good and sufficient security from the party or parties in possession for his or their compliance with the judgment that may be passed in the suit; or, in default of such security being given within a reasonable period, may give possession, until the suit may be determined, to the other claimant or claimants who may be able to give such security, declaring at the same time that such possession is not in any degree to affect the right of property at issue between the parties, but to be considered merely as an administration to the estate for the benefit of the heirs, who may, on investigation, be found entitled to succeed thereto.

[4] **5.** In the event of none of the claimants to the estate of a person dying intestate being able to give the security required by the preceding section, and in all cases wherein there may be no person authorised and willing to take charge of the landed estate of a person deceased, the Judge within whose jurisdiction such estate may be situated (or in which the **In what cases Judge may appoint administrator for care and management of estate of intestate.**

[1] Ss. 4, 5 and 6 of Ben. Reg. V of 1799 were declared in force in Ajmer-Merwara by the Ajmer Laws Regulation, 1877 (III of 1877), s. 3, *infra*.
Short title, the Bengal Wills and Intestacy Regulation, 1799, *see* the Amending Act, 1897 (V of 1897), General Acts, Vol. III.

[2] The words 'and city' were repealed by the Amending Act, 1891 (XII of 1891), General Acts, Vol. III.

[3] The functions of the Court of Sadr Diwáni Adalat are in Ajmer-Merwara discharged by the Chief Commissioner, *see* the Ajmer Laws Regulation, 1877 (III of 1877), s. 3 and Sch. II, *infra*.

[4] Ss. 5 and 6 are modified by Ben. Reg. V of 1827, *infra*.

deceased may have resided, or the principal part of the estate may lie, in the event of its being situated within two or more jurisdictions) is authorized to appoint an administrator for the due care and management of such estate, until, in the former case, the suit depending between the several claimants shall have been determined, or, in the latter case, until the legal heir to the estate, or other person entitled to receive charge thereof as executor, administrator or otherwise, shall attend and claim the same; when, if the Judge be satisfied that the claim is well founded, or if the same be established after any enquiry that may appear necessary, the administrator appointed by the Court shall deliver over the estate to him, with a full and just account of all receipts and disbursements during the period of his administration.

Security to be taken from, and allowances paid to, administrators.

[1] **6.** In all instances of an administrator being appointed under this Regulation, he is, previous to entering upon the execution of his office, to give good security for the faithful discharge of his trust in a sum proportionate to the extent thereof; and the Judge appointing him is authorized to fix for him (subject to the approbation of the Court of Sadr Díwání Adálat,[2] to whom a report is to be made in such instances) an adequate personal allowance to be paid out of the proceeds of the estate, and to be a percentage thereupon, after deducting the expenses of management.

BENGAL REGULATION XI OF 1806.[3]

(THE BENGAL TROOPS TRANSPORT AND TRAVELLERS ASSISTANCE REGULATION, 1806.)

[*3rd July, 1806.*]

A Regulation for facilitating the progress of detachments of troops through the Company's territories; for affording any requisite assistance to persons travelling through those territories. * * * * * *[4]

'otice to be v · to ..llectors

2. Whenever a detachment of troops, or a single corps, shall be ordered to proceed, by land or by water, through any part of the Company's

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[1] Ss. 5 and 6 are modified by Ben. Reg. V of 1827, *infra*.

[2] The functions of the Court of Sadr Díwání Adálat are in Ajmer-Merwara discharged by the Chief Commissioner, *see* the Ajmer Laws Regulation, 1877 (III of 1877), Second Schedule, *infra*.

[3] Ss. 2 to 6 and s. 8 of Ben. Reg. XI of 1806 (with the exception of such part as authorizes Collectors and their Native officers or Magistrates and their Police-officers to give their official aid in procuring *coolies* for the purpose of facilitating the march of troops or the progress of travellers) were declared in force in Ajmer-Merwara by the Ajmer Laws Regulation, 1877 (III of 1877), s. 3, *infra*.

Short title, the Bengal Troops Transport and Travellers Assistance Regulation, 1806, *see* the Amending Act, 1897 (V of 1897), General Acts, Vol. III.

[4] The rest of the title was repealed by the Amending Act, 1891 (XII of 1891), General Acts, Vol. III.

territories, the commanding officer of such detachment or corps is required to give the earliest practicable notice to the Collectors of the Revenue of the zilas through which the troops are to pass, of the probable time of their arrival within such districts respectively, together with information of the probable period of their arrival at the particular places where supplies may be required, and a specification of the supplies which will be wanted

and Magistrates by officers commanding detachments

The commanding officer will likewise notify to the Collectors the probable period of the arrival of the troops at the rivers or nalas intersecting their march, where boats or temporary bridges may be necessary for crossing the troops and the baggage attached to them * * * *[1]

3. *First* —On receiving the notification mentioned in the foregoing section, the Collector shall immediately issue the necessary orders to the landholders, farmers, tahsildars or other persons in charge of the lands through which the troops are to pass, for providing the supplies required, and for making any requisite preparations of boats or temporary bridges, or otherwise for enabling the troops to cross such rivers or nalas as may intersect their march, without any impediment or delay

Procedure of Collector on notice.

The Collector shall at the same time depute a creditable Native officer to accompany the troops through his jurisdiction, for the purpose of aiding in procuring the necessary supplies and of facilitating the march of the troops

It shall also be the duty of such Native officer to provide the troops with whatever bearers, *coolies*,[2] boatmen, carts and bullocks may be indispensably necessary to enable the troops to prosecute their route

Should he experience any difficulty in the performance of this duty, he is at liberty to apply for assistance to the nearest police-officer, who is directed to afford his aid in providing the number of persons, and of carts and bullocks, required [3]

Police to assist in providing bearers, boatmen, carts and bullocks.

Second —The supplies furnished under the foregoing clause (including earthen pots, firewood and every article of supply) shall be paid for by the persons receiving the same at the current bazar prices of the place at which they may be provided,

Rates for supplies furnished to troops.

and all officers commanding detachments of troops or single corps marching through any part of the Company's territories are enjoined to

Commanding officers to inquire

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[1] Words repealed by the Amending Act 1897 (V of 1897), are omitted

[2] So far as it relates to *coolies* the section does not apply to Ajmer-Merwara, *see* the Ajmer Laws Regulation, 1877 (III of 1877), s 3, *infra*

[3] As to fine for disobeying requisition under s 3, *see* Ben Reg VI of 1825, *infra*

into and redress complaints against persons under their command.

make immediate inquiry into any complaints which may be preferred to them by the persons furnishing such supplies or in their behalf, against any person or persons under their command, and to afford such redress to the complainants as the nature of the case may appear to require.

Certificate to be granted by commanding officer when troops are provided with boats, etc.

4. *First.*—Whenever a detachment of troops or a single corps shall be provided with boats, temporary bridges or other accommodations, by any land-holder, farmer, tahsildár or other person, conformably to the orders of the Collector of the zila, for the purpose of crossing the troops and their baggage over rivers or nalas, the commanding officer of such detachment or corps will grant a certificate to the person furnishing the same, specifying the number of boats and persons employed, the burthen of each boat, and how long employed on the public service.

In instances in which temporary bridges may be constructed for the above purpose, the certificate to be granted by the commanding officer is to specify, generally, the dimensions of the bridges and the materials of which they may be composed.

Certificate to be sent to Collector with account.

Second.—The certificate mentioned in the foregoing clause shall be immediately transmitted to the Collector of the zila by the persons receiving it, accompanied by a detailed account of the expense incurred for the purposes therein specified.

Account to be sent by Collector to commanding officer.

Endorsement by commanding officer.

The Collector shall without delay communicate the particulars of the account to the officer commanding the detachment or corps on whose account the expense may have been incurred, who shall certify generally thereon whether the services charged for in it were performed, or shall state such exceptions as he may have to offer to any of the charges.

Account and vouchers to be sent by Collector with his report to Government.

Third.—When the account above-mentioned shall be returned to the Collector, he shall certify whether the sums and rates charged in it are in his opinion reasonable and conformable to the usual rates of labour and hire in the zila; and shall transmit the account, with the vouchers and certificates relating to it, with any requisite observations thereupon, through the prescribed channel, to the [1][Local Government].

After the account shall have undergone the examination and report prescribed for all military contingent charges, the [1][Local Government] will pass such final order as may appear proper.

Collector may pay charge if reasonable.

In the meantime the Collector is empowered in such cases to pay the amount of the charge, or such proportion of it as he may consider reasonable, to the land-holder, farmer or other person entitled thereto; inserting the amount so disbursed by him at the foot of his treasury-account, in explanation of his treasury-balance, in the mode prescribed for similar cases.

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[1] These words were substituted for the words "Governor General in Council" by the Amending Act, 1897 (V of 1897), General Acts, Vol. III.

5. *First*.—Whenever a proprietor, farmer, tenant or manager of land through which any detachment or corps of the Company's troops may march or on which they may be encamped, shall consider himself entitled to compensation for any injury sustained from the march or encampment of the troops, he shall immediately furnish the commanding officer of such troops with as accurate a statement as can be prepared of the nature and extent of the injury sustained, when the commanding officer is required to certify generally thereon whether or not the damage represented to have been sustained has been actually committed, together with his opinion respecting the justice and extent of the claim.

Procedure for landholders, etc., sustaining injury from march or encampment.

Certificate by commanding officer.

Second.—If the proprietor, farmer, tenant or manager, after receiving such certificate, shall consider himself entitled to compensation, he will be at liberty to present the statement of his claim, with the commanding officer's certificate thereon, to the Collector of the zila (either in person or by his vakil) within ten days from the date of the certificate, but no claim of this description shall be received by the Collector after the expiration of that period, unless the person preferring it shall assign good and satisfactory reason for the delay.

Certificate with statement of claim to be presented to Collector within ten days.

The Collector, on receiving a statement of damage and the commanding officer's certificate thereon within the prescribed period, or afterwards if sufficient reason be assigned for the delay, shall forthwith adopt such measures as may appear requisite to ascertain whether or not the claim be well founded, and shall report his proceedings to the Board of Revenue[1], accompanied by his opinion on the merits of the claim, for the consideration and orders of Government.

It is, however, declared that no claim will be received unless accompanied by the prescribed certificate of the commanding officer of the troops by whom the damage may be stated to have been committed, excepting in instances in which the claimant can show good and sufficient cause for not having obtained such certificate.

In such cases, if the Collector shall be satisfied with the cause assigned by the claimant for not having obtained the prescribed certificate, he shall transmit the petition and statement of the claimant to the officer commanding the troops by whom the damage may be stated to have been committed, and shall wait his reply thereto previously to determining whether or not the claim be entitled to investigation.

6. Immediately on receiving the notification mentioned in section 2 the Magistrate shall transmit orders to the several police-daroghas, or other local officers of the police through whose jurisdiction the troops are to pass, to afford every assistance in their power to facilitate the march

Procedure by Magistrate on receiving notice men-

[1] The powers of the Board of Revenue are in Ajmer-Merwara exercised by the Chief Commissioner, *see* the Ajmer Laws Regulation, 1877 (III of 1877), Second Schedule *infra*.

tioned in section 2.

of the troops through their respective jurisdictions; and to co-operate, as far as necessary, with the person deputed on the part of the Collector in procuring the requisite supplies, as well as in adjusting any disputes which may arise respecting the prices of the articles furnished, and in preventing any alarm to the inhabitants of the country.

[1]* * * * * *

Police empowered, in cases of necessity, to assist travellers in prosecuting their route.

8. Whenever any military officer, not commanding nor proceeding with a corps or detachment of troops, or any other persons (whether European or Native) not restricted by Government from passing throughout the country, may be proceeding within any part of the Company's Provinces, either on the public service or on his private affairs, and shall be in need of assistance during his route to enable him to prosecute his journey, he shall be at liberty to apply to the nearest local officer of police, to aid him in providing any requisite bearers, *coolies*,[2] boatmen, carts or bullocks, or any necessary supplies of provisions or other articles.

Assistance how afforded.

On receiving an application of the above nature, the police-officer to whom it may be made shall furnish the aid required, or cause it to be furnished by the proper person or persons: Provided that a sufficient number of persons who have been accustomed to act as bearers, *coolies*,[2] or boatmen, or the requisite number of carts and bullocks, not exclusively appropriated to the purposes of agriculture and occasionally let for hire, can be procured within his jurisdiction.

Persons and carts and bullocks not to be employed in furnishing assistance.

But all police-officers are strictly forbidden, under pain of dismission from office, * * * * *[3] on applications of the above nature, to compel any persons not accustomed to act as bearers, *coolies*,[2] or boatmen to serve on such occasions, or to furnish a traveller, or cause him to be furnished, with bullocks or carts kept for private use and not for hire, or exclusively appropriated to the purposes of agriculture.

Persons employed to be at liberty to return from first police-station.

Persons so employed, and the persons in charge of carts and bullocks so provided, shall be at liberty to return from the first police-station in the next zila through which the corps or detachment is to march, unless a voluntary engagement to the contrary may be entered into by such persons.

Conditions of assistance to travellers.

The police-officers are further enjoined to be careful that a proper compensation for the bearers, *coolies*,[2] boatmen, carts or bullocks employed, and a just price for the provisions or other articles provided, be secured to the persons entitled thereto.

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[1] S. 7 which is not in force in Ajmer-Merwara is omitted.
[2] See footnote 2 to s. 3, *supra*.
[3] Words repealed by the Amending Act, 1891 (XII of 1891), are omitted.

For this purpose, the police officers are authorized to adjust the rate of hire to be paid for the bearers, *coolies*,[1] boatmen, carts or bullocks required, and the price of any articles provided, as well as to demand that the whole or a part, according to the circumstances of the case, be paid in advance

Should any traveller refuse to comply with the adjustment or demand so made by a police officer, he will not be entitled to any assistance from the officers of Government under this Regulation

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BENGAL REGULATION XIX OF 1810

CONTENTS

SECTIONS

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[1] See footnote 2 to s 3, *supra*

BENGAL REGULATION XIX OF 1810.[1]

(THE BENGAL CHARITABLE ENDOWMENTS, PUBLIC BUILDINGS AND ESCHEATS REGULATION, 1810.)

[*14th December, 1810.*]

A Regulation for the due appropriation of the rents and produce of lands granted for the support of * * * *[2] colleges and other purposes: for the maintenance and repair of * * * * *[2] public buildings; and for the custody and disposal of nazul property or escheats.

Preamble.

1. WHEREAS considerable endowments have been granted in land by the preceding Governments of this country, and by individuals, for the support of * * *[2] colleges and for other * *[2] beneficial purposes; and whereas there are grounds to suppose that the produce of such lands is in many instances appropriated, contrary to the intentions of the donors, to the personal use of the individuals in immediate charge and possession of such endowments; and whereas it is an important duty of every Government to provide that all such endowments be applied according to the real intent and will of the grantor; and whereas it is moreover essential to provide for the maintenance and repair of * * * * *[2] buildings which have been erected either at the expense of Government or of individuals for the use and convenience of the public, and also to establish proper rules for the custody and disposal of nazul property or escheats, the following rules have been enacted, to be in force from the period of their promulgation throughout the Provinces immediately dependent on the Presidency of Fort William:

Superintendence of lands granted for support of public buildings.

2. The general superintendence of all lands granted for the support of * * * *[2], colleges and for other * *[2] beneficial purposes, and of all public buildings, such as bridges, sarais, kattras and other edifices, is hereby vested in the [3]Board of Revenue * * *[2]

Appropriation of endowments.

3. It shall be the duty of the [3]Board of Revenue * * * *[2] to take care that all endowments made for the maintenance of establishments of the above description be duly appropriated to the purpose for

[1] Ben. Reg. XIX of 1810 was declared in force in Ajmer-Merwara by the Ajmer Laws Regulation, 1877 (III of 1877), s. 3, *infra*.
Short title, the Bengal Charitable Endowments, Public Buildings and Escheats Regulation, 1810, *see* the Amending Act, 1903 (I of 1903), General Acts, Vol. IV.

[2] Words repealed by the Amending Act, 1903 (I of 1903), are omitted.

[3] The functions of the Board of Revenue are in Ajmer-Merwara discharged by the Chief Commissioner, *see* Ajmer Laws Regulation, 1877 (III of 1877), Second Schedule, *infra*.

which they were destined by the Government or individual by whom such endowments were granted In like manner, it shall be the duty of [the Board of Revenue][1] to provide, with the sanction of Government for the due repair and maintenance of all public edifices which have been erected, either at the expense of the former or present Government or of individuals, and which either at present are or can conveniently be rendered conducive to the convenience of the community

4. In those cases, however, in which any of the buildings in question have fallen to decay and cannot, from that or other causes, be conveniently repaired, or are not calculated if repaired to afford any material accommodation to the public, the [1] [Board] shall recommend that they be sold on the public account or otherwise disposed of, as may appear most expedient

Disposal of ruined buildings

5 Under the foregoing rules, it will of course be incumbent on the [2] Board of Revenue * * * * * [3] to prevent any lands which have been granted for the support of establishments of the above description from being converted to the private use of individuals, or appropriated in any other mode contrary to the intent and will of the donor, and likewise to prevent all public edifices from being usurped by individuals and falling into the possession and exclusive use of private persons

Lands or public edifices not to be appropriated by individuals for private uses

6. [*Estimates of necessary repairs to be submitted to Government*] *Rep Ben Reg XVII of 1816, s 16*

7. The general superintendence of all nazul property or escheats is likewise hereby vested in the [2] Board of Revenue * * * * * [3] who will inform themselves fully through the channel hereafter mentioned of all property of that description, and report to Government whether it should in their opinion be sold on the public account, or in what other mode it should be disposed of

Superintendence of nazul property

8. To enable the [2] Board of Revenue * * * * * [3] the better to carry into effect the duties intrusted to them by this Regulation, local agents shall be appointed in each zila subject to the authority, control and orders of [4][the Board]

Appointment of local agents

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[1] The words "the Board of Revenue" in s 3 were substituted for the words "those Boards" and the word "Board" in s 4 for the word "Boards" by the Amending Act, 1903 (I of 1903), General Acts, Vol IV

[2] The functions of the Board of Revenue are in Ajmer-Merwara discharged by the Chief Commissioner, *see* Ajmer Laws Regulation, 1877 (III of 1877), Second Schedule, *infra*

[3] Words repealed by the Amending Act, 1903 (I of 1903), are omitted

[4] These words were substituted for the words "those Boards respectively" by the Amending Act, 1903 (I of 1903), General Acts, Vol IV.

Collector to be *ex-officio* agent with others.

9. The Collector of the zila shall be *ex-officio* one of those agents with whom the [1][Local Government] will unite such other public officers, whether in the civil, military or medical branch of the service, as may from time to time be judged expedient.

Agents to ascertain and report particulars of endowments, etc.;

10. Under the provisions of the present Regulation, it will of course be the duty of the agents to obtain full information from the public records, and by personal inquiries, respecting all endowments, establishments and buildings of the nature of those above described, and of all nazul property or escheats and to report to the [2] Board * * * * * * [3] any instances in which they may have reason to believe that the lands or buildings are improperly appropriated; being in all cases careful not to infringe any private rights, or to occasion unnecessary trouble or vexation to individuals.

also names, etc., of present trustees or managers;

11. The said agents will further ascertain and report the names, together with other particulars, of the present trustees, managers or superintendents of the several institutions, foundations or establishments above described, whether under the designation of mutawali or any other, and by whom and under what authority appointed or elected, and whether in conformity to the special provisions of the original endowment and appropriation by the founder, or under any general rule or maxim applicable to such institutions and foundations.

and all vacancies or casualties, with full information as to pretensions of claimants.

12. The local agents will also report to the [4][Board of Revenue] all vacancies and casualties which may occur, with full information of all circumstances, to enable the [4][Board] to judge of the pretensions of the person or persons claiming the trust; particularly whether the succession have been heretofore by inheritance in the line of descent, or whether the successor have been in former instances elected, and by whom, or whether he have been nominated by the founder, or his heir or representative, or by any other individual patron of the foundation, or by any officer or representative of Government, or directly by the Government itself.

Agents to recommend fit persons in

13. In those cases in which the nomination has usually rested with the present or former Government, or with a public officer, or of right appertains to Government, in consequence of no private person being competent and entitled to make sufficient provision for the succession to

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[1] These words were substituted for the words "Governor General in Council" by the Amending Act, 1903 (I of 1903), General Acts, Vol. IV.

[2] The functions of the Board of Revenue are in Ajmer-Merwara discharged by the Chief Commissioner. *see* Ajmer Laws Regulation, 1877 (III of 1877), Second Schedule, *infra*.

[3] Words repealed by the Amending Act, 1903 (I of 1903), are omitted.

[4] These words were substituted for the words "Superior Boards" and "Boards" respectively, *ibid*.

the trust and management, it will be the further duty of the local agents to propose, for the approval and confirmation of the [1][Board of Revenue] a fit person or persons for the charge of trustee or manager and superintendent, duly attending to the qualifications of the person selected, and to any special provisions of the original endowment and foundation, and to the general rules or the known usages of the country applicable to such cases. Cases where nomination vests in Government.

14. On the receipt of the report and information required by the preceding clause, the [2] Board of Revenue * * * * [3] will either appoint the person or persons nominated for their approval, or will make such other provision for the trust, superintendence and management, as may be right and fit with reference to the nature and conditions of the endowment, having previously called for any requisite further information from the local agents. Chief Commissioner to appoint such persons or make other provision for trust.

15. Nothing contained in this Regulation shall be construed to preclude any individual who may conceive that he has just grounds of complaint on account of any orders which may be passed by any of the above-mentioned authorities, with respect to the appropriation of any lands or buildings of the nature of those above described, from suing, * * * * * * [3] for the recovery thereof in the regular course of law, or for compensation in damages for any loss or injury supposed to have been unduly sustained by him. Saving of private rights.

16. It is to be clearly understood that the object of the present Regulation is solely to provide for the due appropriation of lands granted for public purposes agreeably to the intent of the grantor, and not to resume any part of the produce of them for the benefit of Government. Object of Regulation.

In like manner it is fully intended that all buildings erected by the former or present Government or by individuals for the convenience of the public should be exclusively appropriated to that purpose, with the exception of such as have fallen to decay, and cannot from that or any other cause be conveniently repaired, or which, under existing circumstances, can no longer contribute to the accommodation of the community.

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[1] These words were substituted for the words "Superior Board" by the Amending Act, 1903 (I of 1903), General Acts, Vol. IV.

[2] The functions of the Board of Revenue are in Ajmer-Merwara discharged by the Chief Commissioner, *see* the Ajmer Laws Regulation, 1877 (III of 1877), Second Schedule, *infra*.

[3] Words repealed by the Amending Act, 1903 (I of 1903), are omitted.

BENGAL REGULATION XI OF 1812.[1]

(THE BENGAL FOREIGN IMMIGRANTS REGULATION, 1812.)

[*18th July, 1812.*]

A Regulation to empower the [Local Government][2] to order the removal of emigrants from foreign countries, and their descendants, from any place in the vicinity of the frontier of the State from which they may have emigrated; and, in certain cases, to place and detain any such persons in safe custody; and likewise to provide for the trial of emigrants and their descendants who may excite disturbances in the countries from which they may have emigrated, and of persons aiding them in the prosecution of such attempts.

Preamble. **1.** WHEREAS considerable bodies of persons, being Natives of Arakan and ordinarily denominated Muggs, have from time to time emigrated from that country and established themselves in that part of the district of Chittagong which lies contiguous to the Arakan frontier;

and whereas numbers of those persons, or of their descendants, abusing the protection which had been afforded to them in the British territories, have excited disturbances and even levied war in the country of Arakan against the Government of Ava, of which State Arakan is now a dependency, and have conducted themselves in a manner manifestly tending to disturb the relations of amity which subsist between the British Government and the Government of Ava;

and whereas it is, in consequence, necessary that the [2][Local Government] should possess legal powers to remove the said bodies of emigrants and their descendants from the frontier of the territory of Arakan, or any other bodies of aliens, or their descendants, from the vicinity of the country from which they may have emigrated, and likewise to detain in confinement any of those persons, or any other individuals being Natives of foreign countries, or their descendants, for offences of the above nature actually committed by them in the territories of the State from which they may have emigrated;

and whereas it is necessary to make provision for the trial of persons committing, or aiding in the commission of, the said offences, the following rules have been passed, to be in force from the period of their promulgation throughout the territories immediately dependent on the Presidency of Fort William.

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[1] Ben. Reg. XI of 1812 was declared in force in Ajmer-Merwara by the Ajmer Laws Regulation, 1877 (III of 1877), s. 3, *infra*.

Short title, the Bengal Foreign Immigrants Regulation, 1812, *see* the Amending Act, 1897 (V of 1897), General Acts, Vol III.

[2] These words were substituted for the words "Governor General in Council" by the Amending Act, 1897 (V of 1897), General Acts, Vol. III.

2. Whenever the [1][Local Government], upon due investigation, shall be satisfied that the emigrants from Arakan, or emigrants from any other State, who may have sought an asylum in the British territories, or the descendants of any of the said emigrants, shall have abused the protection afforded to them, by attempts to excite disturbances in the State from which they or their ancestors may have emigrated it shall be competent to the [1][Local Government] to order the removal of those persons to such other parts of the country as may be judged most convenient for their future residence

Power to order removal of emigrants to parts of country deemed convenient

In like manner, it shall be competent to the [1][Local Government] to order such removal, whenever [2][it] may have grounds to be satisfied that the residence of any body of aliens, or their descendants, in the vicinity of the frontier of the country from which they or their ancestors may have emigrated is likely to cause any serious misunderstanding between that State and the British Government

3 Whenever any body of emigrants or any individuals belonging to such body, shall be ordered to be removed from the part of the country in which they may have been established they shall be allowed to dispose of any property which they may have acquired in such manner as they may judge proper

Emigrants allowed to dispose of property

Provided, however, that if they shall nevertheless retain the right to any real property at the period of their actual removal, it shall be competent to the [1][Local Government] to order such property to be sold by public auction under the superintendence of the Collector of the district

In that case, the nett proceeds of the sale shall be duly paid to the person or persons to whom the said property belonged

4 In cases in which the [1][Local Government] may, on due inquiry and mature deliberation be satisfied that either the preservation of the tranquillity of the British territories, or of the dominions of the allies of the British Government, or the maintenance of the relations of amity subsisting between the British Government and other States, requires that any of the leaders or other persons of the above description, who may have committed the offences mentioned in section 2 of this Regulation, should be placed and detained under restraint, it shall be competent to the [1][Local Government] to order any such persons having committed any of the said offences but not otherwise, to be apprehended and committed to confinement at such place, and under the custody of such public officer, and detained in confinement for such time, as may be deemed by the [1][Local Government] necessary for the public good

Power to order leaders or other emigrants to be apprehended and kept under restraint

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[1] These words were substituted for the words "Governor General in Council" by the Amending Act, 1897 (V of 1897), General Acts, Vol III

[2] The word "it" was substituted for the word "he" by the Burma Laws Act, 1898 (XIII of 1898), Sch III, which applies to the whole of British India *See* Burma Code, Vol I

Punishment for emigrants or their descendants exciting disturbances in countries from which they emigrated.

5. *First.*—Any persons of the above description, or their descendants, who, while living under the protection of the British Government, shall enter the country from which they or their ancestor may have emigrated, or any other foreign country, and shall excite, or attempt to excite disturbances in the said countries, shall be liable to be brought to trial for that offence, and, if convicted, shall be sentenced to suffer imprisonment for the period of seven years.

Punishment for persons aiding or assisting in attempts to excite such disturbances.

Second.—Any persons, whether Native British subjects or aliens, who shall furnish emigrants from foreign countries with any assistance, either of men, money or arms, in prosecution of their attempts to excite disturbances in the country from which they may have emigrated, or in any other country, or shall otherwise aid such aliens in the prosecution of their criminal designs, shall be liable to be brought to trial for that offence, and, if convicted, shall be sentenced to suffer imprisonment for the term of seven years:

Proviso.

Provided, however, that if the Judge by whom the case may be tried shall be of opinion that the punishment established by this and the preceding clause should in any instance be mitigated, he shall submit the proceedings held on the trial [to the Local Government and the Local Government shall pass such orders thereon as it may think fit] [1]:

Provided, moreover, that no sentence or order which may be passed on the trial of any persons under the provisions of the present Regulation shall be competent, or shall be construed, to preclude the [Local Government] [2] from the exercise of the power vested in the Government by section 4 of [this Regulation].[3]

BENGAL REGULATION III OF 1818.[4]

(The Bengal State-Prisoners Regulation, 1818.)

[*7th April, 1818.*]

A Regulation for the confinement of State Prisoners.

Preamble.

1. Whereas reasons of State, embracing the due maintenance of the alliances formed by the British Government with foreign Powers, the

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[1] These words were substituted for the words "to the Nizamat Adalat, who will recommend to the Governor General in Council such abbreviation of the prescribed punishment as they may judge proper," by the Amending Act, 1897 (V of 1897), General Acts, Vol. III.

[2] These words were substituted for the words "Governor General in Council", *ibid.*

[3] These words were substituted for the words "the said Regulation" by the Amending Act, 1903 (I of 1903), General Acts, Vol. IV.

[4] Ben. Reg. III of 1818 was declared in force in Ajmer-Merwara by the Ajmer Laws Regulation, 1877 (III of 1877), s. 3, *infra.* Its provisions have been supplemented by the State Prisoners Act, 1850 (XXXIV of 1850), and the State Prisoners Act, 1858 (III of 1858), General Acts, Vol. I.

Short title, the Bengal State Prisoners Regulation, 1818, *see* s. 4 of the Amending Act, 1897 (V of 1897), General Acts, Vol. III.

preservation of tranquillity in the territories of Native Princes entitled to its protection, and the security of the British dominions from foreign hostility and from internal commotion, occasionally render it necessary to place under personal restraint individuals against whom there may not be sufficient ground to institute any judicial proceeding, or when such proceeding may not be adapted to the nature of the case, or may for other reasons be unadvisable or improper,

and whereas it is fit that in every case of the nature herein referred to, the determination to be taken should proceed immediately from the authority of the Governor General in Council,

and whereas the ends of justice require that, when it may be determined that any person shall be placed under personal restraint, otherwise than in pursuance of some judicial proceeding, the grounds of such determination should from time to time come under revision, and the person affected thereby should at all times be allowed freely to bring to the notice of the Governor General in Council all circumstances relating either to the supposed grounds of such determination, or to the manner in which it may be executed,

and whereas the ends of justice also require that due attention be paid to the health of every State prisoner confined under this Regulation, and that suitable provision be made for his support according to his rank in life and to his own wants and those of his family,

and whereas the reasons above declared sometimes render it necessary that the estates and lands of zamindars, taluqdars and others situated within the territories dependent on the Presidency of Fort William should be attached and placed under the temporary management of the Revenue-authorities, without having recourse to any judicial proceeding,

and whereas it is desirable to make such legal provisions as may secure from injury the just rights and interests of individuals whose estates may be so attached under the direct authority of Government,

the Vice-President in Council has enacted the following rules, which are to take effect throughout the Provinces immediately subject to the Presidency of Fort William, from the date on which they may be promulgated

Proceeding for placing persons under restraint as State prisoners.

2. *First*.—When the reasons stated in the preamble of this Regulation may seem to the Governor General in Council to require that an individual should be placed under personal restraint, without any immediate view to ulterior proceedings of a judicial nature a warrant of commitment under the authority of the Governor General in Council and under the hand of the Chief Secretary, or of one of the Secretaries to Government, shall be issued to the officer in whose custody such person is to be placed.

Form of warrant.

Second.—The warrant [1] of commitment shall be in the following form:—

To the [*here insert the officer's designation*].

"Whereas the Governor General in Council, for good and sufficient reasons, has seen fit to determine that [*here insert the State prisoner's name*] shall be placed under personal restraint at [*here insert the name of the place*]; you are hereby required and commanded, in pursuance of that determination, to receive the person above-named into your custody, and to deal with him in conformity to the orders of the Governor General in Council, and the provisions of Regulation III of 1818.

"Fort William, the

"By order of the Governor General in Council,
"*A. B.*, Chief Secy. to Govt."

Authority of warrant.

Third.—The warrant of commitment shall be sufficient authority for the detention of any State prisoner in any fortress, jail or other place within the territories subject to the Presidency of Fort William.

Officers having custody of State prisoners to submit periodical reports.

3. Every officer in whose custody any State prisoner may be placed shall, on the 1st of January and 1st of July of each year, submit a report to the Governor General in Council, through the Secretary to Government in the Political Department, on the conduct, the health and the comfort of such State prisoner, in order that the Governor General in Council may determine whether the orders for his detention shall continue in force or shall be modified.

State prisoners in custody of Zila or City Magistrate by whom to be visited.

4. *First.*—When any State prisoner is in the custody of a Zila * * [2] Magistrate, the Judges are to visit such State prisoner on the occasion of the periodical sessions, and they are to issue any orders concerning the treatment of the State prisoner which may appear to them advisable, provided they be not inconsistent with the orders of the Governor General in Council issued on that head.

State prisoners in custody of other officers, by whom to be visited.

Second.—When any State prisoner is placed in the custody of any public officer not being a Zila * * [2] Magistrate, the Governor General in Council will instruct either the Zila * * [2] Magistrate, or the Judge or any other public officer, not being the person in whose custody the prisoner may be placed, to visit such prisoner at stated periods, and to submit a report to Government regarding the health and treatment of such prisoner.

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[1] As to direction of warrant, *see* the State Prisoners Act, 1850 (XXXIV of 1850), in General Acts, Vol. I. As to places in which a State prisoner may be confined, *see ib.*, also the State Prisoners Act, 1858, (III of 1858), ss. 2 and 5, in the same volume.

[2] The words "or city" were repealed by s. 4 of the Amending Act, 1903 (I of 1903), General Acts, Vol. III.

Representations by State prisoners to be submitted to Government

5 The officer in whose custody any State prisoner may be placed is to forward with such observations as may appear necessary every representation which such State prisoner may from time to time be desirous of submitting to the Governor General in Council

Report to Government regarding confinement etc of prisoners

6 Every officer in whose custody any State prisoner may be placed shall, as soon after taking such prisoner into his custody as may be practicable report to the Governor General in Council whether the degree of confinement to which he may be subjected appears liable to injure his health and whether the allowance fixed for his support be adequate to the supply of his own wants and those of his family according to their rank in life

Appropriation of allowance for support.

7 Every officer in whose custody any State prisoner may be placed shall take care that the allowance fixed for the support of such State prisoner is duly appropriated to that object

[1] * * * * * *

Attachment of estates by order of Government without decision of Court

9 Whenever the Governor General in Council for the reasons declared in the preamble to this Regulation shall judge it necessary to attach the estates or lands of any zamindar jagirdar taluqdar or other person without any previous decision of a Court of Justice or other judicial proceeding *the ground on which the Resolution of Government may have been* adopted and such other information connected with the case as may appear essential, shall be communicated under the hand of one of the Secretaries to Government to the Judge and Magistrate of the district in which the lands or estates may be situated [and] to the Sadr Diwani Adalat and Nizamat Adalat

Management of attached estates

10 *First* —The lands or estates which may be so temporarily attached shall be held under the management of the officers of Government in the Revenue Department and the collections shall be made and adjudged on the same principles as those of other estates held under his management

Attached lands not liable to sale in execution

Second —Such lands or estates shall not be liable to be sold in execution of decree of the Civil Courts or for the realization of fines or otherwise during the period in which they may be so held under attachment

Government to arrange for satisfaction of decrees

Third —In the cases mentioned in the preceding clause the Government will make such arrangement as may be fair and equitable for the satisfaction of the decrees of the Civil Courts

Rules as to cases where Government

11 Whenever the Governor General in Council shall be of opinion that the circumstances which rendered the attachment of such estates necessary have ceased to operate and that the management of the estate

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[1] S 8 was repealed by the Repealing Act 1874 (XVI of 1874) before the Regulation was applied to Ajmer Merwara

[2] This word was inserted by the Amending Act 1891 (XII of 1891) General Acts Vol III

orders release of estate from attachment.

can be committed to the hands of the proprietor without public hazard or inconvenience, the Revenue-authorities will be directed to release the estate from attachment, to adjust the accounts of the collections during the period in which they may have been superintended by the officers of Government, and to pay over to the proprietor the profits from the estate, which may have accumulated during the attachment.

BENGAL REGULATION VI OF 1825.[1]

(THE BENGAL TROOPS TRANSPORT REGULATION, 1825.)

[*4th April, 1825.*]

A Regulation for rendering more effectual the rules in force relative to supplies and preparations for troops proceeding through the British territories.

Preamble.

1. WHEREAS it is enacted in the first clause of section 3, Regulation XI, 1806,[2] that on receiving the notification mentioned in the preceding section, relative to a body of troops about to proceed, by land or by water, through any part of the Company's territories, the Collector of the district shall immediately issue the necessary orders to the landholders, farmers, tahsildars or other persons in charge of the lands through which the troops are to pass, for providing the supplies required, and for making any requisite preparations of boats or temporary bridges, or otherwise for enabling the troops to cross such rivers or nalas as may intersect their march without impediment or delay; it being at the same time further directed, in the second clause of the section referred to, that the supplies so furnished shall be paid for by the persons receiving the same at the current bazar-prices of the place at which they may be provided, and that the expense incurred for crossing the troops and their baggage over rivers or nalas, after being duly ascertained, will be paid by Government;

and whereas experience has shown the necessity of enabling the Collectors or other public officers acting in that capacity to enforce their orders in the cases above-mentioned, by imposing a fine upon any landholder, *tahsildar* or other person in the possession or management of land, who, after receiving the requisition issued in pursuance of the section above cited, may be proved to have wilfully disobeyed or neglected the same;

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[1] Ben. Reg. VI of 1825 was declared in force in Ajmer-Merwara by the Ajmer Laws Regulation, 1877 (III of 1877), s. 3, *infra.*

Short title, the Bengal Troops Transport Regulation, 1825, *see* s. 4 of the Amending Act, 1897 (V of 1897), General Acts, Vol. III.

[2] *Supra.*

the Governor General in Council has therefore enacted the following rules, to be in force as soon as promulgated in all the Provinces immediately subject to the Presidency of Fort William

Penalty to landholder not providing supplies for troops, etc

2 Any landholder, farmer, tahsildar or other person in the possession or management of land who may have been duly required by a Collector of the land revenue (or any public officer acting in that capacity), in pursuance of section 3, Regulation XI, 1806,[1] to provide supplies for a body of troops about to proceed by land or water through any part of the British territories or to make preparations of boats, temporary bridges or otherwise for enabling the troops to cross rivers or nalas intersecting their march and after the receipt of such requisition shall wilfully disobey or neglect the same or shall without sufficient cause fail to exert himself for the due execution of the duty so assigned to him shall on proof of such failure, neglect or disobedience to the satisfaction of the Collector (or other officer acting in that capacity) by whom the order may have been issued or of his successor in the same office, be liable to a fine proportionate to the defaulter s condition in life and the circumstances of the case in such amount as the Collector or other officer, with due regard to these considerations, may judge it proper to impose, so that the fine shall not in any case exceed the sum of one thousand *[2] rupees

Collector to make summary inquiry

3 The Collector or other officer acting in that capacity, who may exercise the powers vested in him by this Regulation, shall previously make a summary inquiry in the presence of the party charged with disobeying or neglecting the order issued to him, or of his representative, if on being duly summoned he shall attend in person or by vakil for that purpose,

if he shall fail to attend either in person or by vakil, the summary inquiry shall be conducted *ex parte* and the Collector shall record upon his proceedings the whole of the evidence obtained in proof of the neglect or disobedience for which a fine may be imposed

Fine how levied

4 The Collector or other officer who may adjudge a fine under this Regulation shall be competent to levy the amount by the same process as is authorized for the recovery of arrears of the public revenue

Proviso to appeal

Provided that if an appeal be preferred from his decision, within six weeks from the date of it, to the [3]Board of Revenue * * * * *[4] and sufficient security be tendered for performing the judgment of the Board upon the appeal the Collector shall stay the execution of his

[1] *Supra*

[2] The word sikka was repealed by s 4 of the Amending Act 1903 (I of 1903), General Acts Vol IV

[3] The powers of the Board of Revenue are in Ajmer Merwara exercised by the Chief Commissioner *see* the Ajmer Laws Regulation 1877 (III of 1877) Second Schedule *infra*

[4] Words repealed by the Amending Act 1903 (I of 1903

order for levying the fine imposed by him, until he shall receive the final order of the Board.

Petition of appeal against fine.

5. Appeals from the orders of Collectors or other public officers adjudging fines under this Regulation may be preferred either immediately to the [1]Board * *[2] or through the officer by whom the fine may have been adjudged; and, on admission of the appeal, the whole of the proceedings in the case shall be transmitted to the Board.

Limitation of appeal.

But no such appeal shall be receivable after the expiration of six weeks from the date of the judgment, without proof of sufficient reason for the delay, to the satisfaction of the [1]Board * * *[2].

BENGAL REGULATION V OF 1827.[3]

(THE BENGAL ATTACHED ESTATES MANAGEMENT REGULATION, 1827.)

[*27th December, 1827.*]

A Regulation for modifying the rules at present in force for the management of estates under attachment by orders of the Courts of Justice in certain cases.

Preamble.

1. WHEREAS it is expedient in all cases of the attachment of landed property under orders of the Courts of Justice, that the management of the estate attached should be placed under the superintendence of the Collectors of land-revenue; the following rules have been enacted by the Governor General in Council, to be in force from the date of their promulgation throughout the territories immediately subject to the Presidency of Fort William.

Modification of Regulation as to management of attached estates.

2. The rules contained in sections 5 and 6, [4]Regulation V, 1799, * * *[5] regarding the administration and management of estates under orders of the Zila Courts, are hereby declared subject to the following modifications.

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[1] The powers of the Board of Revenue are in Ajmer-Merwara exercised by the Chief Commissioner, *see* the Ajmer Laws Regulation, 1877 (III of 1877), Second Schedule, *infra*.

[2] Words repealed by the Amending Act, 1903 (I of 1903) are omitted.

[3] Ben. Reg. V of 1827 (with the exception of certain words and figures in s. 2) was declared in force in Ajmer-Merwara by the Ajmer Laws Regulation, 1877 (III of 1877), s. 3, *infra*.

Short title, the Bengal Attached Estates Management Regulation, 1827, *see* the Amending Act, 1897 (V of 1897), General Acts, Vol. III.

[4] *Supra*.

[5] Words and figures which were excepted on the application of the Regulation to Ajmer-Merwara by the Ajmer Laws Regulation, 1877 (III of 1877), Second Schedule (*infra*), are omitted.

Issue of precept for holding estates under attachment and for appointing managers

3. Whenever the Zila Courts may deem it just and proper, under the provisions of the [1][Regulation] above-mentioned, to provide for the administration or management of landed property, the Court shall issue a precept to the Collector of land-revenue of the district wherein the estate may be situated, directing him to hold the estate in attachment, and to appoint a person for the due care and management of the estate, under good and adequate security for the faithful discharge of the trust, in a sum proportionate to the extent thereof

Provided, however that if any person holding an interest in the estate shall be dissatisfied with the selection made by the Collector of the individual to perform the duty in question, or with the conduct of the manager at any time after his appointment, it shall be competent to such person to represent his objections to the Board of Revenue [2] and the Board will either confirm the manager chosen, or order the Collector to appoint another person, as on consideration of the circumstances of the case may appear reasonable and proper

Precept to state property included in attachment

4 The precept of the Zila Court above-mentioned shall state specifically the property to be included in the attachment, and the attachment shall not be withdrawn without a further precept from the Court to that effect

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[1] This word was substituted for the words "several Regulations" by the Amending Act, 1903 (I of 1903) General Acts Vol III

[2] The powers of the Board of Revenue are in Ajmer Merwara exercised by the Chief Commissioner see the Ajmer Laws Regulation 1877 (III of 1877) Second Schedule, *infra*

PART II.

LOCAL ACTS OF THE GOVERNOR-GENERAL IN COUNCIL IN FORCE IN AJMER-MERWARA.

THE BENGAL CHAUKIDARI ACT, 1856.

[ACT XX OF 1856.]

CONTENTS.

SECTIONS

SECTIONS.

ACT No. XX OF 1856.[1]

[THE BENGAL CHAUKIDARI ACT, 1856.]

[*14th November, 1856.*]

An Act to make better provision for the appointment and maintenance of Police Chaukidars in Cities, Towns, Stations, Suburbs and Bazars in the Presidency of Fort William in Bengal.

Preamble. WHEREAS it is expedient to make better provision for the appointment and maintenance of Police Chaukidars in cities, towns, stations, suburbs and bazars in the [2]Presidency of Fort William in Bengal [and the territories under the administration of the Chief Commissioner of Oudh][3]; It is enacted as follows:—

Existing assessment. 1. [4] * * * * * The monthly assessment levied under Regulation XXII, 1816, and Act XV of 1837 in any city or station at the

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[1] Short title, the Bengal Chaukidari Act, 1856, *see* the Amending Act, 1903 (I of 1903), General Acts, Vol. IV.

[2] In 1832 Ajmere came under the administration of the North-Western Provinces of the Presidency of Fort William, under which it remained till 1871 when Ajmere and Merwara were formed into a Chief Commissionership. Merwara has been administratively attached to Ajmere since 1842. *See* the Imperial Gazetteer of India, Vol. V, pp. 142, 143.

[3] These words were inserted by the Oudh Laws Act, 1876 (XVIII of 1876), Sch. II, United Provinces Code, Vol. I.

[4] The first portion of this section, repealing Ben. Reg. XXII of 1816, s. 6 of Reg. VII of 1817, Reg. III of 1821, s. 4 of Reg. II of 1832 and Act XV of 1837, was repealed by the Repealing Act, 1870 (XIV of 1870).

time of the passing of this Act, shall continue to be levied until the same shall be revised and altered under the provisions of this Act. to be levied until revised.

[1]**2.** The provisions of this Act shall have effect in all cities stations, towns, suburbs and bazars in the said Presidency [or territories][2] to which the Local Government may, at any time, extend the same by notification[3] in the official Gazette Provided always that this Act shall not be extended to any agricultural village To what places Act shall apply. Proviso

In all places in which this Act is now in force, it shall be deemed to have been extended under the provisions of this section

3. The Government may, by notification to be published in the official Gazette, unite, for the purposes of this Act, any city, town, suburb, station, or bazar, or any part or parts of a city, town, suburb, station, or bazar, with any other city, town, suburb, station, or bazar, or part or parts of a city, town suburb, station, or bazar, and in such case all the provisions of this Act applicable to a city, town, suburb, station, or bazar shall apply to such union Unions may be formed

4. For the purposes of this Act the Local Government may define and declare[3] the limits of any city, town, suburb, station, bazar, or union, and all occupiers of houses within any such city, town, suburb, station, bazar, or union as aforesaid, or within such limits as shall be so defined as aforesaid, shall be liable to be assessed or rated according to the provisions of this Act, for the purpose of maintaining the chaukidars appointed to be maintained in such city, town, station, suburb, bazar, or union Government may define limits of cities towns, etc

5. If any house be let out in portions to different persons, or be let out to or occupied by lodgers or travellers, the person who shall so let the same, or who shall receive the rents or payments from such persons or lodgers or travellers, shall, for the purposes of this Act, be deemed to be the occupier of such house Houses let to lodgers how to be assessed.

6. The Magistrate may cause a name to be given to any street and affixed in such place or places as he may think fit, and may also cause a number to be affixed to every house in any street or mohulla, for the purpose of identifying such house, and if any person shall wilfully remove, obliterate or destroy such name or number, he shall be liable, on conviction by a Magistrate, to a fine not exceeding twenty rupees Penalty for removing, etc, name of street or number of house.

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[1] This section was substituted for the original section 2 by the Bengal Chaukidari (Amendment) Act, 1871 (XXII of 1871) s 1, *infra*

[2] These words were inserted by the Oudh Laws Act, 1876 (XVIII of 1876), Sch II, United Provinces Code, Vol I

[3] For notification extending the Act to a town in Ajmer Merwara and defining the limits of the town, *see* Ajmer Local Rules and Orders

Magistrate to determine number of chaukidars. Proviso.

7. The Magistrate shall determine the number of chaukidars to be maintained in any city, town, or other such place as aforesaid; but the number of chaukidars so to be maintained shall not exceed one to every twenty-five houses.

Grades and wages of chaukidars.

8. The chaukidars appointed under this Act may be of different grades, and the wages to be paid to the several grades shall be determined by the Magistrate.

Magistrate to determine the sum to be raised annually.

9. The Magistrate shall determine the total amount required to be raised in any year in any city, town, or other such place as aforesaid for the purpose of maintaining the [1]chaukidars appointed to be maintained therein and for the purposes specified in sections 33, 34, 35 and 36 of this Act, together with such sum as the Magistrate may consider necessary to provide against the contingency of losses from defaulters in the current year, and the amount of losses, if any, actually sustained from defaulters in the preceding year.

Nature of tax to be levied.

10. The tax to be levied in any city, town, or other place as aforesaid, for the purposes of this Act, may be either an assessment according to the circumstances, and the property to be protected, of the persons liable to the same, or a rate on houses and grounds according to the annual value thereof.

The Local Government, on the report of the Magistrate and Commissioner * * *[2] shall determine in each case whether the tax to be levied shall be such assessment or such rate.

Limitation of tax.

[3]**11.** If the tax be an assessment according to the circumstances, and the property to be protected of the persons liable to the same, the amount assessed in respect of any one house shall not be more than the pay of a chaukidar of the lowest grade.

If the tax be a rate on houses and grounds, it shall not exceed five per centum of the annual value thereof.

Rate how to be ascertained.

12. For the purpose of making a rate under this Act, the annual value of the houses and grounds liable to the rate shall be computed and ascertained upon an estimate of the gross annual rent at which the same might reasonably be expected to let from year to year. Grounds used

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[1] As to the payment of Police-officers appointed under s. 33, when such officers are employed out of the districts for which they are appointed under the Act, *see* s. 21 of the Police Act, 1861 (V of 1861), General Acts, Vol. I.

[2] The words "of circuit" were repealed by the Amending Act, 1891 (XII of 1891), General Acts, Vol. III.

[3] This section was substituted for the original section 11 by the Bengal Chaukidari (Amendment) Act, 1871 (XXII of 1871), *infra*.

for purposes of trade shall be liable to the rate, but grounds used for the purpose of cultivation or for depasturing cattle shall not be liable

Magistrate may exempt occupiers unable to pay the assessment or rate

13. The Magistrate may, at his discretion, exempt from the assessment or rate, or may relieve from the payment of his assessment or rate, any occupier who may be unable from poverty to pay the same

Constitution of panchayats

14 For the purposes hereinafter mentioned, the Magistrate shall constitute and appoint a panchayat for each such city, town, or other place as aforesaid, or when he may see fit to divide any such city, town, or place into convenient divisions, for each division thereof, and shall issue a sanad of appointment, specifying the names, residence, business, or other description of the persons appointed and the period for which the appointment is made

Every panchayat shall consist of three or five respectable persons residing or carrying on business in or near to any such city, town, or other place, or in or near to any such division thereof

Magistrate may appoint a person not residing in the place to be a member of panchayat

Provided that, instead of any one such person, the Magistrate may appoint any person whom he may think fit, to be a member of the panchayat notwithstanding such person may not reside or carry on business in or near to such city town or other place or in or near to any such division thereof

Duties of panchayat.

15. The panchayat so appointed or the majority of them, shall, once in every year, if required so to do by the Magistrate, prepare and make, in accordance with the rules laid down in the requisition an assessment or rate upon the several persons liable to be assessed or rated in respect of their occupation or property within the district (whether city, town, or other place as aforesaid or any division thereof) for which the panchayat shall be appointed and shall enter the same in a list which shall specify the names of the several occupiers of property within the district liable to be assessed or rated under the provisions of this Act, the trade, business, or other description of such occupier, the property occupied and the amount payable monthly by such occupier

If the tax be a rate on the annual value of the property occupied, such annual value and the total amount of the annual rate shall also be specified

Form of Magistrate's requisition.

The requisition of the Magistrate to the panchayat to make out such list shall be in the form marked A or B, as the case may be, set forth in the Appendix to this Act annexed, or to the like effect

Panchâyat may revise existing assessment or rate

16 The panchâyat shall, if required by the Magistrate so to do, instead of making a new assessment or rate revise and amend the assessment or rate then in force

Magistrate may amend

17. When an assessment or rate shall have been made or revised, as the case may be, the panchayat shall forward to the Magistrate the list

and settle assessment or rate as revised by the panchâyat.

containing the same; and the Magistrate shall revise, and, if necessary, amend and settle it

Assessment or rate to be published.

18. When the assessment or rate shall have been settled, the Magistrate shall sign the list, and shall cause one copy thereof, together with a notification prepared according to the form marked C in the Appendix to this Act, or to the like effect, and written in the language of the province in which the city, town, or place is situate, to be stuck up in some conspicuous place in the district for which the assessment or rate has been made; and another copy, together with a like notification, at the nearest police thana; and shall also cause a third copy to be deposited in his own office.

Assessment or rate to stand good for one year.

Change of occupation before a new assessment or rate.

19. Unless revised or corrected as hereinafter provided, every assessment or rate under this Act shall stand good for one whole year, and until a new one is made, and in case the occupier of any property included in any assessment or rate shall be changed before a new one is made, the new occupier shall be liable in respect of such property for any portion of the assessment or rate which shall have become payable during his occupation instead of the former occupier thereof; and, after notification to such person, the Magistrate may cause his name to be substituted in the said list for the name of the former occupier.

Revised assessment or rate to be deemed a new one. Proviso.

Every assessment or rate which shall be revised according to the provision of section 16 shall be deemed a new assessment or rate. Provided always that if no new assessment or rate is made within the first three months of any year, the list of the previous year shall be re-published according to the provisions of section 18, and shall thereupon be deemed to be the assessment or rate for the current year, and shall be open to appeal under the next succeeding section.

Appeal from assessment or rate.

20. Any person assessed or rated who shall be dissatisfied with his assessment or rate or who shall dispute his occupation of any property, or his liability to be assessed or rated, may appeal on unstamped paper to the Magistrate, and the Magistrate, after making such inquiries as he deems necessary, by examination of the appellant on oath or solemn affirmation, or otherwise, may confirm the assessment or rate or amend the same.

In case the Magistrate confirms the assessment or rate, he may award costs against the appellant.

The decision of the Magistrate in such cases shall be final, and no objection shall be taken to any assessment or rate, nor shall the liability of any person to be assessed or rated be questioned in any other manner or by any other Court:

Limitation of appeal.

Provided that no appeal shall be received after the expiration of one month from the time of the notification of the assessment or rate pre-

scribed by section 18, or of the notification of the substitution of the name of an occupier under section 19, unless the Magistrate, upon reasonable cause shown, shall extend the time for receiving such appeal

21 The Commissioner * * *,[1] with the consent of the Local Government, may, at any time, direct the Magistrate to revise the assessment or rate of any city, town, or other place as aforesaid, specifying the reasons which in his opinion, render such revision necessary, and the Magistrate shall according to such direction, revise and, if necessary, amend the same

Commissioner may direct revision of assessment or rate

22 The Magistrate may require the panchayat to revise the assessment or rate at any period during the year, but on every such occasion he shall address a written order to the panchayat, specifying the reasons which render such revision necessary, and requiring an amended return within a stated period

Magistrate may direct revision at any time of the year for reasons to be stated

23 Whenever any assessment or rate is revised during the year as provided in the two last preceding sections a revised list, together with a notification as prescribed in section 18 shall be prepared and published in the manner therein directed And all objections to such revised assessment or rate shall be made and dealt with in the manner prescribed in section 20

Publication of assessment or rate as revised under the two last sections

24 If any person appointed a member of a panchayat refuse to undertake the office or omit to perform the duties thereof, and do not, within fifteen days from the date of his appointment, show satisfactory grounds for his refusal or omission, or provide such a substitute as the Magistrate approves, the Magistrate may fine such person in a sum not exceeding fifty rupees

Penalty for refusal to serve on panchayat

25 If the persons appointed a panchayat or a majority of them, refuse or omit for a period of fifteen days after the receipt of an order from the Magistrate, to perform the duties required of them the Magistrate may himself make or revise the assessment or rate, and may enforce the same as if it had been made or revised in the first instance by the panchayat

If panchayat refuse or omit to act, Magistrate may assume their functions.

Provided that the functions of the panchayat shall not thereby absolutely cease and determine, but may be resumed at any time only not so as to invalidate any act done by the Magistrate under this section

Proviso

26 No person shall be bound to act on a panchayat unless he shall reside or carry on business within the limits of the district for which the panchayat is to be appointed

Residents only bound to act on a panchayat

27 Every panchayat shall be appointed for the period of one year and no person shall be compelled to serve on a panchayat for more than one year at a time, or within less than three years after the expiry of

Duration of panchayat and limitation of service thereon

[1] The words "of circuit" were repealed by the Amending Act, 1891 (XII of 1891) General Acts, Vol III

previous service; but nothing in this section shall prevent any person from being appointed to serve on a pancháyat at any time whatsoever with his own consent.

Member of pancháyat removeable only on application of rate-payers.

28. If a majority of the persons assessed or rated in any district for which a pancháyat shall be appointed not being in arrear, make application in writing to the Magistrate for the removal of any member of the pancháyat appointed for such district, the Magistrate, if he think it expedient, may remove such member from the pancháyat.

Vacancies in pancháyat how to be supplied.

29. If any vacancy shall occur among the members of a pancháyat, or if any member appointed shall refuse or decline or be unable to act, the Magistrate may nominate and appoint another person to supply the vacancy or to act in the stead of such member, subject to the rules already laid down as to the original appointment of members; but such appointment may be made by a written communication to the person appointed, and it shall not be necessary to issue a new sanad under section 14 of this Act.

Pancháyat to report misconduct of chaukidars, or death or absence.

30. The pancháyat shall give notice to the Magistrate of any neglect or misconduct on the part of any chaukidar within the district for which they are appointed which shall come to their knowledge; and shall also give notice of any vacancy which shall occur in consequence of the death or absence of any chaukidar or from any other cause.

Appointment and duty of sadr pancháyat.

31. In cities and large towns containing three or more divisions or districts the Magistrate may appoint a sadr pancháyat consisting of not less than five members, who may be selected either from the members of the local pancháyats or from any other residents of the city or town.

It shall be the duty of the sadr pancháyat to assist the Magistrate, when required so to do, in carrying out generally the objects of this Act, and particularly in revising the assessment or rate made by the district pancháyats and enquiring into and reporting on appeals preferred against the same.

Appointment and registry of chaukidars.

32. The chaukidars to be employed under this Act shall be appointed by the Magistrate, and the Magistrate shall cause to be kept a register in which shall be entered the name, age, place of residence, and previous occupation of every person so appointed with the date of his appointment.

Appointment of jemadars and inspectors.

33. Subject to the approval of the Commissioner * * *[1] the Magistrate may appoint such number of jemadars and inspectors as may be necessary for the supervision and control of the chaukidars:

Provided that the number of these officers shall not be greater than one jemadar to fifteen chaukidars, and one inspector to sixty chaukidars.

ppointment of tax-collectors and other

34. Subject to the approval of the Commissioner * * *[1] the Magistrate may appoint one or more tax-collectors or darogahs, and

[1] The words "of circuit" were repealed by the Amending Act, 1891 (XII of 1891), General Acts, Vol. III.

such other servants as may be necessary for preparing, or assisting the panchayat in preparing the assessment or rate, for copying the same, for collecting the tax, keeping the accounts and records, and otherwise carrying out the purposes of this Act establishment

The Magistrate shall take from every tax-collector or darogah such security for the due disposal of the sums collected by him as may be thought necessary

35. The Magistrate may further incur any reasonable expense in the purchase of stationery, in providing badges, dresses, and weapons for the chaukidars, and for any other contingencies that may seem to him necessary. Contingent expenses

36. After paying the wages of the chaukidars, and defraying the charges specified in the three last preceding sections of this Act, the Magistrate may, with the sanction of the Commissioner * * *[1], appropriate any sum which may be available, to the purpose of cleansing the city, town, or place, or of lighting or otherwise improving the same Surplus funds may be devoted to conservancy purposes

37. The tax-darogahs shall prepare, from the lists hereinbefore mentioned, a register, which shall be attested by the Magistrate or his Deputy or Assistant, and shall contain the names of all persons assessed or rated so far as they can be ascertained, the property in respect of which the assessment or rate in each case is imposed and the amount payable monthly by each person Preparation of assessment lists

[2]**38.** On such dates as may be fixed by the panchayat for payment of instalments of the tax, the tax-darogah shall proceed in person or through some one of his office-establishment, to collect the amount due for the current month from each person subject to the tax, and for all sums so collected the darogah shall grant a receipt Collection of assessment

Provided that, with the sanction of the Commissioner * * *[1] previously obtained, the collection may be made quarterly instead of monthly, and in such case, the amount due for each quarter shall be collected in the last month of that quarter

39 The tax-darogah shall remit to the Magistrate, in such manner as the Magistrate shall direct, all sums of money collected either by himself or by any one of his establishment, and the Magistrate, or some officer of his establishment authorized on that behalf, shall give the darogah a receipt for every sum of money so remitted Remittance of collection

The Magistrate shall also cause all such sums of money to be credited to a separate fund, to be called the chaukidari fund of the city, town, or place in or on account of which they are collected.

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[1] The words "of circuit" were repealed by the Amending Act, 1891 (XII of 1891) General Acts, Vol III

[2] This section was substituted for the original section 38 by the Bengal Chaukidari (Amendment) Act, 1871 (XXII of 1871), *infra*

Preparation of summons, etc.

40. The tax-darogah shall prepare all summonses and processes to be issued against defaulters, and shall make the usual returns thereto, and shall keep a regular account of all distresses levied and sales made by him for the realization of arrears.

Report of defaulters to Magistrate.

41. [On the tenth day after the day fixed for the payment of instalments of the tax,][1] or as soon after as possible, the tax-darogah shall deliver or transmit to the Magistrate, in one list, a statement of all defaulters, the property in respect to which they are assessed or rated, the amount of the monthly assessment or rate, and the amount due from each.

Summons of defaulters.

42. On receipt of the aforesaid list, the Magistrate shall issue a summons against each of the defaulters therein mentioned, requiring him either to pay the demand or to attend at the Cutcherry of the Magistrate within a reasonable time, to be specified in the summons to show cause for his refusal.

Assessment to be levied from defaulters by distress and sale.

43. If any defaulter fail to appear in answer to the summons, or having appeared, fail to satisfy the Magistrate that no arrear is due from him, the Magistrate may issue a warrant to the tax-darogah, authorizing him to levy the whole or any part of the demand by distress and sale of any goods and chattels belonging to the defaulter, or being at any time upon the premises in respect of which the arrear is due; and the Magistrate's order as contained in the warrant shall be final.

Sale how to be conducted.

44. The tax-darogah shall make an inventory of all goods and chattels seized under the Magistrate's warrant, and shall give previous notice of the sale, and the time and place thereof, by beat of drum, in the district in which the property is situated.

Proceeds how to be applied.

If the arrear be not paid with costs, or the warrant be not in the meantime discharged or suspended by the Magistrate, the goods and chattels seized shall be sold at the time and place specified, in the most public manner possible; and the proceeds shall be applied in discharge of the arrears and costs, and the surplus, if any, shall be returned on demand to the person in possession of the goods and chattels at the time of the seizure.

Returns of sale. sts.

The tax-darogah shall make a return of all such sales to the Magistrate in the form specified in Appendix D, and the costs upon every such proceeding shall be such as are mentioned and set forth in Appendix E annexed to this Act.

Penalty for tax-darogah purchasing at such sales.

45. Any tax-darogah or other servants appointed under this Act, and any chaukidar or officer of Police, who shall purchase any property at any such sale as aforesaid, shall be liable, upon conviction before a Magis-

[1] These words were substituted for the words "on the twentieth of each calendar month" by the Bengal Chaukidari (Amendment) Act, 1871 (XXII of 1871), *infra*.

trate, to a penalty not exceeding fifty rupees, and the property shall be confiscated

46. If no sufficient goods or chattels belonging to a defaulter, or being upon the premises in respect of which he is assessed or rated, can be found within the district in which the premises are situate, the Magistrate may issue his warrant to the nazir of his Court for the distress and sale of any personal property or effects belonging to the defaulter within any other part of the jurisdiction of the Magistrate, or for the distress and sale of any personal property belonging to the defaulter within the jurisdiction of any other Magistrate whatsoever, and such other Magistrate shall back the warrant so issued and cause it to be executed, and the amount, if levied, to be remitted to the Magistrate issuing the warrant **Sale of property beyond limits of town, etc**

47. All goods and chattels except tools or implements of trade, which may be found upon any premises in respect of which an arrear is due, shall be liable to be distrained for the recovery of such arrear **All goods found on premises liable to sale.**

If the goods and chattels belong to any person other than the defaulter, the defaulter shall indemnify the owner of such goods and chattels from any damage he may sustain by reason of such distress or by reason of any payment he may make to avoid such distress or any sale under the same: **But owner of goods to be indemnified by the defaulter**

Provided that no distress shall be made for any arrears due under this Act, after the expiration of six calendar months from the time when such arrears became due

48. Every person who shall wilfully obstruct or molest any tax-darogah or any of his establishment, in the performance of their duties under this Act, or shall fraudulently conceal, remove, or dispose of any of his property for the purpose of avoiding a distress under the provisions of this Act, or shall knowingly assist any other person in so doing shall *be liable, on conviction before a Magistrate, to a penalty not exceeding* fifty rupees **Penalty for obstructing tax darogah in execution of duty**

49. The Magistrate shall receive and try all complaints preferred on oath or solemn affirmation against any tax-darogah or other person appointed under this Act for extortion, malversation, or other misconduct in the discharge of his duty **Magistrates to try complaints against tax-darogah for extortion, etc**

On proof of any such offence, the tax-darogah or other person as aforesaid shall be liable to dismissal from office, and to imprisonment, with or without labour, for a period not exceeding six months, and may also be compelled to refund any money corruptly or unduly exacted or received, and to deliver up any effects which may have been illegally distrained or sold, or the value thereof, or in default and until such delivery or refund be made, shall be liable to further imprisonment, with hard labour, for not more than six months. **Penalty for extortion, etc**

Proviso.

But nothing in this section shall be taken to prevent the Magistrate from committing any tax-darogah or other person as aforesaid for trial before the Sessions Court, or to limit the power of the Sessions Court in regard to the punishment of such offences under the general law.

Powers, duties, and liabilities of chaukidars, jemadars, and inspectors.

50. The chaukidars, and the jemadars and inspectors appointed under this Act, shall exercise all the powers, and perform all the duties, and be subject to all the liabilities of Police-officers as prescribed in the General Regulations of the Bengal Code or Acts of the Government of India for the time being in force, so far as such powers, duties, and liabilities are not inconsistent with, or otherwise expressly provided for by this Act.

The Chaukidars and the jemadars and inspectors are in all respects subordinate to the Police-darogah of the thana within the limits of which they may be employed.

Chaukidars to wear badges.

51. Every chaukidar appointed under this Act shall wear a badge with a number, and the name of the city, town, place, or division for which he is appointed, engraved thereon.

Duties of chaukidars—

52. Every chaukidar and every jemadar and inspector appointed under this Act shall have power, without warrant, to apprehend and convey immediately to the nearest Police-station any person or persons taken in the act of committing any heinous offence, or whom he shall have just cause to suspect to be about to commit or to have committed a heinous offence, or against whom a hue and cry shall be raised.

to apprehend offenders,

to prevent nuisances.

Second.—He shall have power to prevent obstructions and nuisances on the roads and streets.

to give intelligence of resort of thieves, etc.,

Third.—He shall give immediate intelligence to the Police-darogah of the resort to his division of any receivers of stolen goods, or of any robbers or other persons of notorious or suspected character, or of any circumstances likely to occasion a breach of the peace.

to examine and detain suspected persons.

Fourth.—He may stop, examine, and, if necessary, detain, any person who shall be reasonably suspected at any time of having or conveying anything stolen, or who shall be found between sunset and sunrise lying or loitering in any highway, yard, or other place, and unable to give a satisfactory account of himself, and may convey such person to the nearest Police-station.

..ons ..d to assist chaukidars in making arrests.

53. If a chaukidar or other Police-officer be unable to effect an arrest, he may require all persons present to assist him; and any person who refuses or neglects to comply with such requisition shall be liable, on conviction by a Magistrate, to a fine not exceeding fifty rupees, or to imprisonment not exceeding two months.

54. On the fifteenth day of each month, or on such other day not later than the fifteenth day of the month as the Magistrate may appoint, the chaukidars and the jemadars and inspectors (if any) shall be mustered at the thana to which they are attached, and the Police-darogah or mohurrir of the thana shall there pay them the wages due to them up to the close of the preceding month, and shall at the same time take the receipt of each chaukidar in an official register of receipts prepared for the purpose, and the darogah, after signing the register in attestation of its correctness, shall transmit the same to the Magistrate. Chaukidars, etc., how to be paid.

55. Any chaukidar and any jemadar or inspector appointed under this Act, who is convicted of neglect of duty or misconduct, shall be liable to fine to an extent not exceeding half a month's wages, or to imprisonment for any period not exceeding six months. Punishment of chaukidar for neglect of duty, etc.

56. The Magistrate may suspend or dismiss any officer appointed under this Act, whom he shall think remiss or negligent in the discharge of his duty, or otherwise unfit for the same. Suspension or dismissal of police officers.

57. All fines levied under this Act shall be credited to the chaukidari fund and held available for the purposes of this Act. Fines how to be disposed of.

58. [*Jurisdiction of Magistrates.*] *Rep. Act X of 1872.*

59. All the proceedings of a Magistrate under this Act, except as otherwise specially provided, shall be subject to the control of the Commissioner * * * [1], and all the proceedings of the Commissioner * * * [1] shall be subject to the control of the Local Government. Control over proceedings of Magistrate and Commissioner.

60. [*Act not to apply to Calcutta.*] *Rep. Act XII of 1891.*

61. Wherever in this Act, or in any Appendix thereto, there is nothing in the context requiring a different interpretation— Interpretation of Act.

The word "Magistrate" shall include a Joint Magistrate and any person lawfully exercising the powers of a Magistrate.

The word "house" shall include any shop or warehouse.

The word "bazar" shall mean any place of trade where there is a collection of shops or warehouses.

The word "district" shall mean a city, town, bazar, or union, or any division thereof.

The expression "Police-darogah" shall include any tahsildar or naib-tahsildar entrusted with Police-jurisdiction.

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[1] The words "of circuit" were repealed by the Amending Act, 1891 (XII of 1891), General Acts, Vol. III.

Proviso.

But nothing in this section shall be taken to prevent the Magistrate from committing any tax-darogah or other person as aforesaid for trial before the Sessions Court, or to limit the power of the Sessions Court in regard to the punishment of such offences under the general law.

Powers, duties, and liabilities of chaukidars, jemadars, and inspectors.

50. The chaukidars, and the jemadars and inspectors appointed under this Act, shall exercise all the powers, and perform all the duties, and be subject to all the liabilities of Police-officers as prescribed in the General Regulations of the Bengal Code or Acts of the Government of India for the time being in force, so far as such powers, duties, and liabilities are not inconsistent with, or otherwise expressly provided for by this Act.

The Chaukidars and the jemadars and inspectors are in all respects subordinate to the Police-darogah of the thana within the limits of which they may be employed.

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to apprehend offenders,

to prevent nuisances.

Second.—He shall have power to prevent obstructions and nuisances on the roads and streets.

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Third.—He shall give immediate intelligence to the Police-darogah of the resort to his division of any receivers of stolen goods, or of any robbers or other persons of notorious or suspected character, or of any circumstances likely to occasion a breach of the peace.

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Fourth.—He may stop, examine, and, if necessary, detain, any person who shall be reasonably suspected at any time of having or conveying anything stolen, or who shall be found between sunset and sunrise lying or loitering in any highway, yard, or other place, and unable to give a satisfactory account of himself, and may convey such person to the nearest Police-station.

[illegible]rsons [illegible] to [illegible] [illegible]dars making

53. If a chaukidar or other Police-officer be unable to effect an arrest, he may require all persons present to assist him; and any person who refuses or neglects to comply with such requisition shall be liable, on conviction by a Magistrate, to a fine not exceeding fifty rupees, or to imprisonment not exceeding two months.

54 On the fifteenth day of each month, or on such other day not later than the fifteenth day of the month as the Magistrate may appoint, the chaukidars and the jemadars and inspectors (if any) shall be mustered at the thana to which they are attached, and the Police darogah or mohurrir of the thana shall there pay them the wages due to them up to the close of the preceding month and shall at the same time take the receipt of each chaukidar in an official register of receipts prepared for the purpose, and the darogah, after signing the register in attestation of its correctness, shall transmit the same to the Magistrate

Chaukidars, etc, how to be paid.

55 Any chaukidar and any jemadar or inspector appointed under this Act, who is convicted of neglect of duty or misconduct, shall be liable to fine to an extent not exceeding half a month s wages, or to imprisonment for any period not exceeding six months

Punishment of chaukidar for neglect of duty, etc

56 The Magistrate may suspend or dismiss any officer appointed under this Act whom he shall think remiss or negligent in the discharge of his duty or otherwise unfit for the same

Suspension or dismissal of police officers.

57 All fines levied under this Act shall be credited to the chaukidari fund and held available for the purposes of this Act

Fines how to be disposed of

58 [*Jurisdiction of Magistrates*] *Rep Act X of 1872*

59 All the proceedings of a Magistrate under this Act, except as otherwise specially provided, shall be subject to the control of the Commissioner * * * [1], and all the proceedings of the Commissioner * * * [1] shall be subject to the control of the Local Government

Control over proceedings of Magistrate and Commissioner

60. [*Act not to apply to Calcutta*] *Rep Act XII of 1891*

61 Wherever in this Act or in any Appendix thereto, there is nothing in the context requiring a different interpretation—

Interpretation of Act

The word "Magistrate" shall include a Joint Magistrate and any person lawfully exercising the powers of a Magistrate

The word "house" shall include any shop or warehouse

The word "bazar" shall mean any place of trade where there is a collection of shops or warehouses

The word "district" shall mean a city, town, bazar, or union, or any division thereof

The expression "Police darogah" shall include any tahsildar or naib tahsildar entrusted with Police jurisdiction

[1] The words "of circuit" were repealed by the Amending Act 1891 (XII of 1891), General Acts, Vol III

APPENDIX A.[1]

To

[*Here insert the names, places of abode, business, or other description of the panchâyat.*]

I do hereby require you, the panchâyat appointed under Act XX of 1856, with all reasonable expedition, not exceeding (*here insert a period to be fixed by the Magistrate*) from the date hereof, to make out and forward to me, the undersigned Magistrate of the zila of , a fair and equitable assessment upon the several occupiers of houses, shops, and buildings, in the (*here describe the city, town, place, or division*), for the purpose of raising the sum of rupees required for the maintenance of chaukidars for the year commencing on and other expenses authorized by Act XX of 1856. You shall regulate and determine the amount of assessment to be levied from every such occupier according to the circumstances, and the property to be protected, of each person. But the amount assessed in respect of any one house shall not exceed rupees (*here insert the pay of a chaukidar of the lowest grade*) * * * * *[2]

If the occupier of any house in the said district shall be unable, on the ground of poverty, to pay the assessment to which he is liable under this Act, you shall exempt him from the same; but the property occupied, together with the name and description of such occupier, shall be specified in the list, together with the ground of exemption.

If any house be let out in portions to different persons, or be let out to or occupied by lodgers or travellers, the person who shall so let the same, or who shall receive the rents or payments from such persons or lodgers, or travellers, shall be deemed the occupier of such house and shall be assessed accordingly.

The assessment which you are hereby required to make shall specify the name of every occupier of property liable to be assessed, the name, trade, or business or other description of the person assessed, the annual assessment, and the quota payable monthly; and may be in the following form, or to the like effect:—

Property occupied.	Name of occupier.	Profession or business or other description.	Amount of monthly payment.

[1] *See* section 15, *supra*.
[2] Words repealed by the Bengal Chaukidari (Amendment) Act, 1871 (XXXI of 1871) (*infra*) are omitted.

APPENDIX B[1]

To

[*Here insert the names places of abode business, or other description of the panchayat*]

I do hereby require you the panchayat appointed under Act XX of 1856, with all reasonable expedition, not exceeding (*here insert a period to be fixed by the Magistrate*) from the date hereof to make out and forward to me the undersigned Magistrate of the zila of a fair and equal rate upon the several occupiers of houses shops, and buildings and of grounds occupied for the purpose of trade or business in the (*here describe the city, town place, or division*) for the purpose of raising the sum of rupees

required for the maintenance of chaukidars for the year commencing on and other expenses authorized by Act XX of 1856 You shall regulate and determine the amount of the rate to be levied from every such occupier according to the annual value of the property occupied

The rent at which any such property may reasonably be expected to let for one year shall be deemed the annual value of such property The rate shall be an equal percentage not exceeding five per cent of such annual value

Any person occupying ground for the purpose of trade is to be rated in respect thereof, but a person occupying ground for the purpose of cultivation or for depasturing cattle is not to be rated in respect thereof

If the occupier of any house or ground in the said district shall be unable, on the ground of poverty, to pay the rate to which he is liable under this Act you shall exempt him from the same, but the property occupied, together with the name and description of such occupier, shall be specified in the list together with the ground of exemption

If any house be let out in portions to different persons or be let out to or occupied by lodgers or travellers the person who shall so let the same, or who shall receive the rents or payments from such persons or lodgers, or travellers, shall be deemed the occupier of such house, and shall be rated accordingly

The rate which you are hereby required to make shall specify the name of every occupier of property liable to be rated the name trade or business or other description of the person rated the annual rateable

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[1] Se section 15 supra

value of the property, the annual rate, and the quota payable month and may be in the following form, or to the like effect:—

Property occupied.	Name of occupier.	Profession or business or other description.	Annual value of property.	Annual rate.	Amount of monthly payment.

APPENDIX C.[1]

An assessment (*or rate, as the case may be,*) made for (*here descr the city, town, village, or other place or division for which the rate made*) upon the several occupiers of houses and other property in the sa district, pursuant to Act XX of 1856, for the purpose of maintaini chaukidars for such district.

Property occupied.	Names of occupiers.	Profession or business.	Amount of monthl (*or quarterly*) assess ment (*or rate*).

Whereas the above assessment (*or rate, as the case may be,*) has be duly made pursuant to Act XX of 1856, and has been revised a settled by me, the undersigned Magistrate of the several perso whose names are included in the said assessment (*or rate*) are here required to pay the monthly (*or quarterly*) contributions set opposite their names with regularity to the tax-darogah or other person appoint by the Magistrate to receive the same * * *[2] (*if the tax is to collected quarterly, the months in which the payment is to be made m be specified*), or in default thereof, any arrear that may be due will realized by distraint and sale of the personal effects of the defaulter, of any goods and chattels which may be found on the premises in respe

[1] *See* section 18, *supra*.
[2] Words repealed by the Bengal Chaukidari (Amendment) Act, 1871 (XXII 1871) (*infra*) are omitted.

of which such defaulter is assessed (*or rated*) and such other proceedings adopted for the recovery of the same as are allowed by law.

Dated this day of

Magistrate of

APPENDIX D.[1]

1	2	3	4	5	6	7	8	9	10	11
District.	Names of defaulters.	Amount of defalcation.	Amount, cost, or penalty.	Inventory of property seized under distress.	Date of distress	Date of sale.	Property sold.	Amount realized on each article	Purchaser's name.	Balance.

[1] *See* section 44, *supra.*

APPENDIX E.[1]

Table of Fees payable in distraints under this Act.

Sum distrained for.	Fee.		
	Rs.	A.	P.
Under 1 Rupee	0	4	0
1 and under 3 Rupees	0	8	0
3 " 5 "	1	0	0
5 " 10 "	1	8	0
10 " 15 "	2	0	0
15 " 20 "	2	8	0
20 " 25 "	3	0	0
25 " 30 "	3	8	0
30 " 35 "	4	0	0
35 " 40 "	4	8	0
40 " 45 "	5	0	0
45 " 50 "	5	8	0
50 " 60 "	6	0	0
60 " 80 "	7	8	0
80 " 100 "	9	0	0
Above 100	*10*	*0*	*0*

The above charge includes all expenses, except when peons are kept in charge of property distrained, in which case three annas must be paid daily for each man.

THE PUBLIC GAMBLING ACT, 1867.

[ACT III OF 1867.]

CONTENTS.

PREAMBLE.

SECTIONS.

[1] *See* section 44, *supra*.

ACT No III OF 1867 [1]

[THE PUBLIC GAMBLING ACT, 1867]

[*25th January, 1867*]

An Act to provide for the punishment of public gambling and the keeping of common gaming houses in the [2]North Western Provinces of the Presidency of Fort William, and in the Punjab, [3]Oudh, [3][and the Central Provinces]

WHEREAS it is expedient to make provision for the punishment of public gambling and the keeping of common gaming houses in the territories respectively subject to the Governments of the Lieutenant Governor of the [2]North Western Provinces of the Presidency of Fort Preamble

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[1] For Statement of Objects and Reasons see Gazette of India, 1866 p 976, for Report of the Select Committee, see *ibid* 1867 Supplement, p 44, and for Proceedings in Council, *see ibid* 1866 p 662 *ibid* 1867, pp 43 and 59

Short title the Public Gambling Act 1867—*see* the Amending Act, 1897 (V of 1897), General Acts, Vol III

The Act was originally extended by notification of the Lieutenant Governor of the North Western Provinces, No 346-A , dated the 8th June 1867, to the following towns of Ajmer Merwara namely Ajmer, Bhinae, Kekree, Khurwah Masuda Nuseerabad, Nyanagar, Pisangun Pokar Ramsur, Sawur and Srinagar—*see* N W P Gazette, dated 31st July 1867, p 511 Subsequently this notification has been superseded and the Act extended to the Scheduled District of Ajmer Merwara *see* Appendix, *infra* The United Provinces Public Gambling (Amendment) Act 1917 (U P Act I of 1917) and the United Provinces Public Gambling (Amendment) Act 1925 (U P Act I of 1925) which amend this Act have also been extended to Ajmer Merwara *see* Appendix, *infra*

[2] The North Western Provinces and the province of Oudh are now known as the United Provinces of Agra and Oudh—*see* Proclamation No 996 P dated 22nd March 1902 Gazette of India 1902 Pt I, p 228

Ajmer and Merwara were under the administration of the North Western Provinces of the Presidency of Fort William till 1871 when they were formed into a Chief Commissionership Merwara has been administratively attached to Ajmer since 1842 See the Imperial Gazetteer of India Vol V pp 142, 143

[3] These words were substituted for the words " the Central Provinces and British Burma " by the Amending Act, 1903 (I of 1903), Genl Acts, Vol IV

William, [and][1] of the Lieutenant-Governor of the Punjab, and to the administrations of the [2]Chief Commissioner of Oudh, [3][and of the Chief Commissioner of the Central Provinces]; It is hereby enacted as follows:—

Interpretation-clause.

1. In this Act—

"Lieutenant-Governor."

"[3][Lieutenant-Governor" means the Lieutenant-Governor of the United Provinces of Agra and Oudh or of the Punjab, as the case may be:]

"Chief Commissioner."

"[3][Chief Commissioner" means the Chief Commissioner of the Central Provinces or of the North-West Frontier Province, as the case may be:]

"Common gaming-house."

"[4][Common gaming-house" means—

(1) in the case of gaming on the digits of the sale price of any commodity, for example opium or cotton, or on the digits of papers or bales manipulated from within jars or other receptacles, or on the occurrence or non-occurrence of any natural event, for example, rainfall or the quantity of rainfall, any house, room, tent, walled enclosure, space, vehicle, vessel or any place whatsoever in which instruments of gaming are kept or used for such gaming;

(2) in the case of any other form of gaming, any house, room, tent, walled enclosure, space, vehicle, vessel or any place whatsoever in which any instruments of gaming are kept or used for the profit or gain of the person owning, occupying, using or keeping such house, room, tent, enclosure, space, vehicle, vessel or place whether by way of charge for the use of such house, room, tent, enclosure, space, vehicle, vessel, place or instrument, or otherwise howsoever.]

[5]* * * * * *

Power to extend Act.

2. [6][Sections 13 and 17] of this Act shall extend to the whole of the said territories; and it shall be competent to the Lieutenant-Governor or the Chief Commissioner, as the case may be, whenever he may think fit, to extend, by a notification to be published in three successive numbers

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[1] This word was inserted by the Amending Act, 1891 (XII of 1891), Sch. II, General Acts, Vol. III.

[2] Now the Governor of the United Provinces of Agra and Oudh.

[3] These words were substituted by the Amending Act, 1903 (I of 1903), Sch. II, Genl. Acts, Vol. IV.

[4] This definition of "Common gaming-house" was substituted by s. 2 of the United Provinces Public Gambling (Amendment) Act, 1925 (U. P. Act I of 1925) which has been extended to Ajmer-Merwara, *see* Appendix, *infra*.

[5] Clauses relating to *gender* and *number* which were repealed by Act XVII of 1914 are omitted.

[6] These words and figures were substituted for the words and figures "sections 13, 17 and 18" by the Amending Act, 1891 (XII of 1891), Genl. Acts, Vol. III.

of the official Gazette, all or any of the remaining sections[1] of this Act to any city, town, suburb, railway-station-house and place being not more than three miles distant from any part of such station-house within the territories subject to his government or administration, and in such notification to define, for the purposes of this Act, the limits of such city, town, suburb or station-house, and, from time to time, to alter the limits so defined.

From the date of any such extension, so much of any rule having the force of law which shall be in operation in the territories, to which such extension shall have been made, as shall be inconsistent with or repugnant to any section so extended, shall cease to have effect in such territories.

Penalty for owning or keeping, or having charge of, a gaming-house.

3. Whoever, being the owner or occupier, or having the use, of any [2][house, room, tent, walled enclosure, space, vehicle, vessel or place], situate within the limits to which this Act applies, opens, keeps or uses the same as a common gaming-house, and

whoever, being the owner or occupier of any such [2][house, room, tent, walled enclosure, space, vehicle, vessel or place] as aforesaid, knowingly or wilfully permits the same to be opened, occupied, used or kept by any other person as a common gaming-house, and

whoever has the care or management of, or in any manner assists in conducting, the business of any [2][house room, tent, walled enclosure, space, vehicle, vessel or place] as aforesaid, opened, occupied, used or kept for the purpose aforesaid, and

whoever advances or furnishes money for the purpose of gaming with persons frequenting such [2][house, room, tent, walled enclosure, space, vehicle, vessel or place];

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[1] The remaining sections of the Act were extended to the following towns of Ajmer and Merwara:—

Ajmer	Boundaries as fixed by the Municipal Committee, Ajmer
Nayanagar	
Srinagar	
Kekri	
Sawar	
Masuda	City walls
Pisangun	
Bhinai	
Kharwa	
Pushkar	Half mile on all sides from the old Thana
Ramsar	Half mile on all sides of the Tehsil
Nasirabad	Within the boundary pillars of the Cantonment

[Notification No 213-309cc-30, dated the 19th March 1931, Gazette of India, 1931, Pt II-A., p 125.]

[2] These words were substituted for the words "house, walled enclosure, room or place" by s 3 of the United Provinces Public Gambling (Amendment) Act, 1917 (U P Act I of 1917), which has been extended to Ajmer Merwara, *see* App. *infra*.

shall be liable to a fine not exceeding two hundred rupees, or to imprisonment of either description[1] as defined in the Indian Penal Code, XLV of 1860. for any term not exceeding three months.

Penalty for being found in gaming-house.

4. Whoever is found in any such [2][house, room, tent, walled enclosure, space, vehicle, vessel or place], playing or gaming with cards, dice, counters, money or other instruments of gaming, or is found there present for the purpose of gaming, whether playing for any money, wager, stake or otherwise, shall be liable to a fine not exceeding one hundred rupees, or to imprisonment of either description,[1] as defined in the Indian Penal Code, XLV of 1860. for any term not exceeding one month;

and any person found in any common gaming-house during any gaming or playing therein shall be presumed, until the contrary be proved, to have been there for the purpose of gaming.

Power to enter and authorize Police to enter and search.

5. If the Magistrate of a district,[3] or other officer invested with the full powers of a Magistrate,[3] or the District Superintendent of Police, upon credible information, and after such enquiry as he may think necessary, has reason to believe that any [2][house, room, tent, walled enclosure, space, vehicle, vessel or place] is used as a common gaming-house;

he may either himself enter, or by his warrant authorize any officer of Police, not below such rank as the Lieutenant-Governor or Chief Commissioner shall appoint in this behalf, to enter, with such assistance as may be found necessary, by night or by day, and by force if necessary, any such [2][house, room, tent, walled enclosure, space, vehicle, vessel or place];

and may either himself take into custody, or authorize such officer to take into custody, all persons whom he or such officer finds therein, whether or not then actually gaming;

and may seize or authorize such officer to seize all instruments of gaming, and all moneys and securities for money, and articles of value, reasonably suspected to have been used or intended to be used for the purpose of gaming, which are found therein;

and may search or authorize such officer to search all parts of the [2][house, room, tent, walled enclosure, space, vehicle, vessel or place], which he or such officer shall have so entered when he or such officer has reason to believe that any instruments of gaming are concealed therein, and also the persons of those whom he or such officer so takes into custody;

[1] *See* s. 53 of the Indian Penal Code (Act XLV of 1860).
[2] These words were substituted for the words "house, walled enclosure, room or place" by s. 3 of the United Provinces Public Gambling (Amendment) Act, 1917 (U. P. Act I of 1917), which has been extended to Ajmer-Merwara, *see* App. *infra*.
[3] *See* the Code of Criminal Procedure (Act V of 1898), s. 3 (2).

and may seize or authorize such officer to seize and take possession of all instruments of gaming found upon such search

6. When any cards, dice, gaming tables, cloths, boards or other instruments of gaming[1] are found in any [2][house, room, tent, walled enclosure, space, vehicle, vessel or place] entered or searched under the provisions of the last preceding section, or about the person of any of those who are found therein, it shall be evidence, until the contrary is made to appear, that such [2][house, room, tent, walled enclosure, space, vehicle, vessel or place] is used as a common gaming-house, and that the persons found therein were there present for the purpose of gaming, although no play was actually seen by the Magistrate or Police-officer, or any of his assistants

Finding cards, etc, in suspected houses, to be evidence that such houses are common gaming houses

7. If any person found in any common gaming-house entered by any Magistrate or officer of Police under the provisions of this Act, upon being arrested by any such officer or upon being brought before any Magistrate, on being required by such officer or Magistrate to give his name and address, shall refuse or neglect to give the same, or shall give any false name or address, he may, upon conviction before the same or any other Magistrate, be adjudged to pay any penalty not exceeding five hundred rupees, together with such costs as to such Magistrate shall appear reasonable, and on the non-payment of such penalty and costs, or in the first instance, if to such Magistrate it shall seem fit, may be imprisoned for any period not exceeding one month

Penalty on persons arrested for giving false names and addresses.

8. On conviction of any person for keeping or using any such common gaming house, or being present therein for the purpose of gaming, the convicting Magistrate may order all the instruments of gaming found therein to be destroyed, and may also order all or any of the securities for money and other articles seized, not being instruments of gaming, to be sold and converted into money, and the proceeds thereof with all moneys seized therein to be forfeited, or, in his discretion, may order any part thereof to be returned to the persons appearing to have been severally thereunto entitled

On conviction for keeping a gaming house, instruments of gaming to be destroyed

9. It shall not be necessary, in order to convict any person of keeping a common gaming-house, or of being concerned in the management of any common gaming-house, to prove that any person found playing at any game was playing for any money, wager or stake

Proof of playing for stakes unnecessary.

10. It shall be lawful for the Magistrate before whom any persons shall be brought, who have been found in any [2][house, room, tent, walled enclosure, space, vehicle, vessel or place] entered under the provisions of this Act, to require any such persons to be examined on oath or solemn

Magistrate may require any person apprehended to be sworn and give evidence.

[1] "Cowries" are not "instruments of gaming"—*Queen-Empress v Bharsani*, I L R 18, All 23

[2] These words were substituted for the words "house, walled enclosure, room or place" by s 3 of the United Provinces Public Gambling (Amendment) Act, 1917 (U P Act I of 1917), which has been extended to Ajmere-Merwara, *see* Appendix, *infra*

affirmation, and give evidence touching any unlawful gaming in such [1][house, room, tent, walled enclosure, space, vehicle, vessel or place] or touching any act done for the purpose of preventing, obstructing or delaying the entry into such [1][house, room, tent, walled enclosure, space, vehicle, vessel or place] or any part thereof, of any Magistrate or officer authorised as aforesaid.

No person so required to be examined as a witness shall be excused from being so examined when brought before such Magistrate as aforesaid, or from being so examined at any subsequent time by or before the same or any other Magistrate, or by or before any Court on any proceeding or trial in any ways relating to such unlawful gaming or any such acts as aforesaid, or from answering any question put to him touching the matters aforesaid, on the ground that his evidence will tend to criminate himself.

Any such person so required to be examined as a witness, who refuses to make oath or take affirmation accordingly or to answer any such question as aforesaid, shall be subject to be dealt with in all respects as any person committing the offence described in section 178 or section 179 (as the case may be) of the Indian Penal Code. XLV of 1860.

Witnesses indemnified.

11. Any person who shall have been concerned in gaming contrary to this Act, and who shall be examined as a witness before a Magistrate on the trial of any person for a breach of any of the provisions of this Act relating to gaming, and who, upon such examination, shall, in the opinion of the Magistrate, make true and faithful discovery, to the best of his knowledge, of all things as to which he shall be so examined, shall thereupon receive from the said Magistrate a certificate in writing to that effect, and shall be freed from all prosecutions under this Act for anything done before that time in respect of such gaming.

12. [*Act not to apply to certain games.*] *Rep. U. P. Act I of 1917, S. 4.*

Gaming and setting birds and animals to fight in public streets.

13. A Police-officer may apprehend without warrant—

any person found [2][gaming] in any public street, place or thoroughfare situated within the limits aforesaid, or

any person setting any birds or animals to fight in any public street, place or thoroughfare situated within the limits aforesaid, or

any person there present aiding and abetting such public fighting of birds and animals.

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[1] These words were substituted for the words "house, walled enclosure, room or place" by s. 3 of the United Provinces Public Gambling (Amendment) Act, 1917 (U. P. Act I of 1917), which has been extended to Ajmer-Merwara, *see* Appendix, *infra.*

[2] This word was substituted for the words "playing for money or other valuable thing with cards, dice, counters or other instruments of gaming, used in playing any game not being a game of mere skill" by s. 5, *ibid.*

Such persons when apprehended shall be brought without delay before a Magistrate, and shall be liable to a fine not exceeding fifty rupees, or to imprisonment, either simple or rigorous, for any term not exceeding one calendar month,

and such Police officer may seize all instruments of gaming found in such public place or on the person of those whom he shall so arrest, and the Magistrate may, on conviction of the offender, order such instruments to be forthwith destroyed

Destruction of instruments of gaming found in public streets

[1][**13A** Nothing in this Act shall apply to any game of mere skill wherever played]

Exemption of games of mere skill

14. Offences punishable under this Act shall be triable by any Magistrate having jurisdiction in the place where the offence is committed

Offences by whom triable

But such Magistrate shall be restrained within the limits of his jurisdiction under the Code of Criminal Procedure,[2] as to the amount of fine or imprisonment he may inflict

15 Whoever, having been convicted of an offence punishable under section 3 or section 4 of this Act shall again be guilty of any offence punishable under either of such sections, shall be subject for every such subsequent offence to double the amount of punishment to which he would have been liable for the first commission of an offence of the same description

Penalty for subsequent offence

Provided that he shall not be liable in any case to a fine exceeding six hundred rupees, or to imprisonment for a term exceeding one year

16 The Magistrate trying the case may direct any portion of any fine which shall be levied under sections 3 and 4 of this Act, or any part of the moneys or proceeds of articles seized and ordered to be forfeited under this Act, to be paid to an informer

Portion of fine may be paid to informer.

17. All fines imposed under this Act may be recovered in the manner prescribed by section 61 of the Code of Criminal Procedure,[3] and such fines shall (subject to the provisions contained in the last preceding section) be applied as the Lieutenant-Governor or Chief Commissioner, as the case may be, shall, from time to time, direct

Recovery and application of fines

18 [*Offences under this Act to be "offences" within meaning of Penal Code*] *Rep Act XVI of 1874, section 1, and Schedule, Part I*

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[1] This section was inserted by section 6 of the United Provinces Public Gambling (Amendment) Act, 1917 (U P Act I of 1917), which has been extended to Ajmer-Merwara, *see* Appendix, *infra*

[2] *See* now the Code of Criminal Procedure (Act V of 1898)

[3] *See* now ss 386, 387 and 389, *ibid*

affirmation, and give evidence touching any unlawful gaming in such [1][house, room, tent, walled enclosure, space, vehicle, vessel or place] or touching any act done for the purpose of preventing, obstructing or delaying the entry into such [1][house, room, tent, walled enclosure, space, vehicle, vessel or place] or any part thereof, of any Magistrate or officer authorised as aforesaid.

No person so required to be examined as a witness shall be excused from being so examined when brought before such Magistrate as aforesaid, or from being so examined at any subsequent time by or before the same or any other Magistrate, or by or before any Court on any proceeding or trial in any ways relating to such unlawful gaming or any such acts as aforesaid, or from answering any question put to him touching the matters aforesaid, on the ground that his evidence will tend to criminate himself.

Any such person so required to be examined as a witness, who refuses to make oath or take affirmation accordingly or to answer any such question as aforesaid, shall be subject to be dealt with in all respects as any person committing the offence described in section 178 or section 179 (as the case may be) of the Indian Penal Code. XLV of 186

Witnesses indemnified.

11. Any person who shall have been concerned in gaming contrary to this Act, and who shall be examined as a witness before a Magistrate on the trial of any person for a breach of any of the provisions of this Act relating to gaming, and who, upon such examination, shall, in the opinion of the Magistrate, make true and faithful discovery, to the best of his knowledge, of all things as to which he shall be so examined, shall thereupon receive from the said Magistrate a certificate in writing to that effect, and shall be freed from all prosecutions under this Act for anything done before that time in respect of such gaming.

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Destruction of instruments of gaming found in public streets.

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14 Offences punishable under this Act shall be triable by any Magistrate having jurisdiction in the place where the offence is committed

Offences by whom triable.

But such Magistrate shall be restrained within the limits of his jurisdiction under the Code of Criminal Procedure [2] as to the amount of fine or imprisonment he may inflict

15 Whoever, having been convicted of an offence punishable under section 3 or section 4 of this Act, shall again be guilty of any offence punishable under either of such sections shall be subject for every such subsequent offence to double the amount of punishment to which he would have been liable for the first commission of an offence of the same description

Penalty for subsequent offence

Provided that he shall not be liable in any case to a fine exceeding six hundred rupees or to imprisonment for a term exceeding one year

16 The Magistrate trying the case may direct any portion of any fine which shall be levied under sections 3 and 4 of this Act, or any part of the moneys or proceeds of articles seized and ordered to be forfeited under this Act to be paid to an informer

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Recovery and application of fines

18 [*Offences under this Act to be "offences" within meaning of Penal Code*] *Rep Act XVI of 1874, section 1, and Schedule, Part I*

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[1] This section was inserted by section 6 of the United Provinces Public Gambling (Amendment) Act 1917 (U P Act I of 1917), which has been extended to Ajmer-Merwara *see* Appendix *infra*

[2] *See* now the Code of Criminal Procedure (Act V of 1898)

[3] *See* now ss 386, 387 and 389, *ibid*

ACT No. XXII OF 1871.[1]

[THE BENGAL CHAUKIDARI (AMENDMENT) ACT, 1871.]

[*1st August, 1871.*]

An Act to authorise the extension of the Chaukidari Act to places where there is no Jamadar of Police.

Preamble.

WHEREAS by Act No. XX of 1856[2] (*to make better provision for the appointment and maintenance of Police Chaukidars in Cities, Towns, Stations, Suburbs and Bazars in the Presidency of Fort William in Bengal*), section 2, the Local Government is restrained from extending that Act to any city, town, suburb or bazar unless there be therein (or in some city, town, suburb or bazar with which the same may be united as thereinafter provided) a police-station under an officer of a grade not below that of a jamadar; and whereas it is expedient to remove such restriction and in other respects to amend the said Act; It is hereby enacted as follows:—

Amendment of section 2, Act XX of 1856.

1. Instead of the second section of the said Act, the following shall be read:—

[*Vide supra*, p. 25.]

Amendment of section II.

2. Instead of section 11 of the said Act, the following shall be read:—

[*Vide supra*, p. 26.]

Amendment of section 38.

3. Instead of section 38 of the said Act, the following shall be read:—

[*Vide supra*, p. 31.]

Amendment of section 41.

4. In the 41st section of the said Act, instead of the words "on the twentieth of each calendar month," there shall be read the words "on the tenth day after the date fixed for the payment of instalments of the tax."

5. [*Repeal of parts of Appendices A and C.*] *Rep. Act XII of 1891.*

Construction.

6. This Act shall be read with, and taken as part of, the said Act XX of 1856. [3] * * * * *

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[1] For Statement of Objects and Reasons, *see* Gazette of India, 1870, Part V, page 493, and for Proceedings in Council, *see ibid*, 1870, Supplement, pp. 1328 and 1349; *ibid*, 1871, Supplement, p. 1077.

Short title, the Bengal Chaukidari (Amendment) Act, 1871, *see* the Amending Act, 1903 (I of 1903), Genl. Acts, Vol. IV.

[2] *Supra.*

[3] Words repealed by the Amending Act, 1891 (XII of 1891) are omitted

ACT No XV of 1875 [1]

[The Punjab Laws (Amendment) Act, 1875]

[15th July, 1875]

An Act to amend the Punjab Laws Act, 1872

Whereas, in order to provide for the establishment of rural police and for the more efficient administration of law in the Punjab, it is expedient to amend the Punjab Laws Act, 1872, It is hereby enacted as follows — Preamble

1 This Act may be called the Punjab Laws (Amendment) Act, 1875 Short title

It extends to the territories for the time being under the Government of the Lieutenant-Governor of the Punjab[2], Local extent

[3] * * * * * *

2. The said Punjab Laws Act, 1872, [4]shall be read as if the following sections were inserted next after section 39 thereof — Addition to Act IV of 1872

[5]" 39A The Local Government may establish a system of village watchmen in any part of the territories under its administration and not comprised within the limits of a municipality, and in furtherance of this object may from time to time make rules [6] to provide for the following matters — Power to establish village watchman system and to make rules

(a) the definition of the limits of watchmen s beats,

(b) the determination of the several grades of watchmen, and the number of each grade to be appointed to each beat,

(c) the appointment, suspension dismissal and resignation of watchmen of each grade,

(d) the equipment and discipline of, and the control and supervision over, such watchmen,

(e) the conferring upon them, and the exercise by them, of any powers, and the enjoyment by them of any protection or privilege, which may be exercised and enjoyed by a police-officer under any Act for the time being in force,

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[1] For Statement of Objects and Reasons *see* Gazette of India, 1875 Part V, p 8 and for Proceedings in Council *see ibid*, 1874 Supplement, pp 1985, 1988, and *ibid*, 1875, Extra Supplement p 1

[2] The Act was extended to Ajmer Merwara by notification under the Scheduled Districts Act, 1874 "with the necessary verbal alteration for application to Ajmer Merwara instead of to the Punjab" *infra*, Appendix

[3] The words "and it shall come into force at once" in section 1 were repealed by the Second Repealing and Amending Act, 1914 (XVII of 1914), Sch II, Genl Acts Vol VI

[4] Act IV of 1872 does not apply to Ajmer Merwara

[5] Sections 39A and 39B as here printed are not now in force in the Punjab, new sections having been substituted for them by the Punjab Laws Amendment Act, 1881 (XXIV of 1881) which has not been extended to Ajmer Merwara, its operation being limited to the Punjab

[6] For rules under s 39A, *see* Vol I of the Ajmer Local Rules and Orders

(*f*) the performance by them of such duties relating to police, sanitation or statistics, or for the benefit of the village-communities within their beat, as the Local Government thinks fit;

(*g*) the exercise of authority over, and the rendering of aid to, such watchmen, by the headmen of the villages comprised in their respective beats;

(*h*) the performance, by the headmen of the villages comprised in the beat, of any of the duties of a village-watchman in aid of, or substitution for, such watchmen;

(*i*) the exercise, by such village-headmen, of any of the powers, and the enjoyment by them of any privilege or protection, of a village-watchman for the purposes referred to in clauses (*g*) and (*h*) of this section;

(*j*) the determination of the rate at which, and the mode in which, watchmen shall be paid, and of the mode in which their pay, the expenses of their equipment, and other charges connected with the village-watchman system shall be provided for, whether out of cesses or funds already leviable or available in the villages comprised in the beat, or by a special tax in money or kind to be imposed on any class of persons residing or owning property in or resorting to such villages, or partly in one of these ways and partly in the other;

(*k*) the collection with or without the aid of the village-headmen, and by any process available for the realization of the land revenue, of any tax imposed under clause (*j*) of this section, and the application of, and the mode of accounting for, the same;

(*l*) the efficient working of the village-watchman system generally:

" Provided—

1st, that the rules to be made regarding the appointment of village-watchmen shall allow to the headmen of the villages comprised in the beat to which such a watchman is to be appointed, a power of nomination to be exercised in such manner, and subject to such reasonable conditions, as may be prescribed by such rules;

2ndly, that the rules to be made under clause (*j*) of this section shall include provisions for recording and securing due consideration of the views and opinions of the headmen of such beat on the matters therein referred to.

"39B Every person is bound to render to a village-watchman or village headman discharging the duties of a police-officer under the rules made hereunder all the assistance which he is bound to render to a police-officer. Obligation to assist watchmen and headmen

"Any person who obstructs such watchman or headman in the discharge of such duties may be arrested without warrant by a police-officer or by any village headman or watchman empowered in this behalf by the Local Government Person obstructing watchman or headman may be arrested without warrant

"39C Whenever it seems to the Local Government expedient that the duties of watch and ward and other internal police-service of any town or village not comprised within the limits of a municipality or within the limits of a village-watchman's beat, as defined under the power conferred by section 39A, should be performed by police-officers enrolled under Act V of 1861,[1] the Local Government may direct that the said service shall be so performed, and may also, with the previous sanction of the Governor General in Council, direct that the charges for the time being fixed by such Government on account of such service shall be defrayed by taxes to be levied in such town or village Power to direct local taxation for payment of police enrolled under Act V *of 1861.*

"39D When the Local Government has, under section 39C, directed that taxes shall be levied in any town or village, the Deputy Commissioner may from time to time issue a public notice in such town or village, explaining the nature of the taxes he proposes to levy Issue of notice of taxes proposed to be levied.

"Any inhabitant of such town or village objecting to the taxation thus proposed may, within fifteen days from the publication of such notice, send his objection in writing to the Deputy Commissioner Objections *to taxation.*

"After the expiry of fifteen days from the publication of the notice the Deputy Commissioner may submit for the information of the Local Government a report of the proposal made by him Such report shall contain specific mention of the objections (if any) urged to his proposal and his opinion on such objections Procedure thereon.

"*No such tax* shall be levied until it has upon such report, been approved by the Local Government

"39E When any such tax has been so approved by the Local *Government*, the Deputy Commissioner may from time to time, subject to such rules consistent with this Act as the Local Government may from time to time prescribe, determine the rates at which it is to be levied Power to fix rates of tax

[1] The Police Act, 1861. General Acts, Vol I

Power to make rules for collection of taxes.

"39F. The Local Government may from time to time make rules to provide for the collection of such taxes by any process available for the realization of the land-revenue, and to regulate the application and mode of accounting for the same.

"39G. [*Validation clause.*] *Rep. Act XII of* 1891."

Substitution of new section for section 50. Power to make rules.

3. Section 50 of the said Punjab Laws Act[1] is repealed, and in lieu thereof there shall be read the following:— IV of 1872.

"50. The Local Government may from time to time make rules as to the matters mentioned in sections 43 to 49 inclusive.

Existing rules.

"All existing rules upon such matters, which might have been made under this section had it been in force, shall be deemed to have been made hereunder.

Conditions of validity of rules hereafter made under this Act.

"50A. No rules hereafter made by the Local Government under any power conferred by this Act shall be valid unless—

(*a*) they are consistent with the laws for the time being in force in the Punjab;

(*b*) they are published in the official Gazette;

(*c*) previous to such publication they are sanctioned by the Governor General in Council.

Penalties for breach of such rules.

"50B. The Local Government may, in making any rule under any of the powers conferred by this Act, attach to the breach of it, in addition to any other consequences that would ensue from such breach, a punishment on conviction before a Magistrate not exceeding six months' imprisonment, or three hundred rupees fine, or both."

THE NORTHERN INDIA FERRIES ACT, 1878.

[ACT XVII OF 1878.]

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PREAMBLE.

SECTIONS.

I.—PRELIMINARY.

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[1] Act IV of 1872 is not in force in Ajmer-Merwara.

II.—Public Ferries

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IV.—Penalties and Criminal Procedure

V.—Miscellaneous

ACT No. XVII of 1878.[1]

[The Northern India Ferries Act, 1878.]

[*9th November, 1878.*]

An Act to Regulate Ferries in Northern India.

Preamble.

Whereas it is expedient to regulate ferries in the Punjab, the North-Western Provinces, Oudh,[2] the Central Provinces, Assam and Ajmere and Merwara; It is hereby enacted as follows:—

I.—Preliminary.

Short title.

1. This Act may be called the Northern India Ferries Act, 1878.

Local extent.

It extends only to the territories respectively administered by the Lieutenant-Governors of the Punjab and the North-Western Provinces[3] and the Chief Commissioners of Oudh,[3] the Central Provinces,[4] Assam[4] and Ajmere and Merwara.

Commencement.

It shall come into force in each of the said territories on such date as the Local Government may, by notification in the official Gazette, fix in this behalf.

Repeal.

2. On and from the date on which it comes into force in the territories respectively administered by the Lieutenant-Governor of the[3] North-Western Provinces and the said Chief Commissioners,[5] Bengal Regulation VI of 1819 shall be repealed therein; but all determinations, declarations, orders and rules made, engagements entered into, and securities taken, under that Regulation, and then in force, shall be deemed to be respectively made, entered into and taken under this Act.

Interpretation clause.

3. In this Act the word "ferry" includes also a bridge of boats, pontoons or rafts, a swing-bridge, a flying-bridge and a temporary bridge, and the approaches to, and landing places of, a ferry.

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[1] For Statement of Objects and Reasons, *see* Gazette of India, 1878, Part V, p. 135; for Preliminary Report of the Select Committee, *see ibid*, p. 210, and for Proceedings in Council, *see ibid*, Supplement, pp. 286, 325, 1104 and 1194.

[2] Now the United Provinces of Agra and Oudh, *see* the United Provinces (Designation) Act, 1902 (VII of 1902), U. P. Code, Vol. I.

[3] Now the Governor of the United Provinces of Agra and Oudh.

[4] The Punjab, the Central Provinces and Assam are now Governor's Provinces.

[5] So far as it affects Ajmer-Merwara, Ben. Regulation VI of 1819 was repealed by s. 2 (*a*) of the Ajmer Laws Regulation, 1877 (III of 1877), *infra*.

II —PUBLIC FERRIES

4 The Local Government may from time to time— Power to declare establish, define and discontinue public ferries.

(*a*) declare what ferries shall be deemed public ferries, and the respective districts in which for the purposes of this Act, they shall be deemed to be situate,

(*b*) take possession of a private ferry and declare it to be a public ferry,

(*c*) establish new public ferries where, in its opinion, they are needed,

(*d*) define the limits of any public ferry,

(*e*) change the course of any public ferry, and

(*f*) discontinue any public ferry which it deems unnecessary

Every such declaration, establishment, definition, change or discontinuance shall be made by notification in the official Gazette

[1][Provided that when a river lies between two Provinces, the powers conferred by this section shall in respect of such river, be exercised jointly by the Local Governments of those Provinces by notifications in their respective official Gazettes and in any case where the said Local Governments fail to agree as regards the exercise of any such power they shall exercise such power subject to the control of the Governor General in Council]

Provided also that, when any alteration in the course or in the limits of a public ferry is rendered necessary by changes in the river such alteration may be made, by an order under his hand by the Commissioner of the division in which such ferry is situate, or by such other officer as the Local Government may from time to time, appoint by name or in virtue of his office in this behalf

5 Claims for compensation for any loss sustained by any person in consequence of a private ferry being taken possession of under section 4, shall be enquired into by the Magistrate of the district in which such ferry is situate, or such officer as he appoints in this behalf, and submitted for the consideration and orders of the Local Government Claims for compensation

6 The immediate superintendence of every public ferry shall, except as provided in section 7, be vested in the Magistrate of the district in which such ferry is situate, or in such other officer as the Local Government may from time to time, appoint by name or in virtue of his office in this behalf, Superintendence of public ferries

and such Magistrate or officer shall, except when the tolls at such ferry are leased, make all necessary arrangements for the supply of boats for such ferry, and for the collection of the authorized tolls leviable thereat

[1] This proviso was substituted by s 2 and Sch I of the Devolution Act, 1920 (XXXVIII of 1920), General Acts, Vol VI

Management may be vested in municipality;

7. The Local Government may direct that any public ferry situate within the limits of a town be managed by the officer or public body charged with the superintendence of the municipal arrangements of such town;

and proceeds paid into municipal fund.

and may further direct that all or any part of the proceeds from such ferry be paid into the municipal fund of such town;

and thereupon such ferry shall be managed, and such proceeds or part thereof shall be paid, accordingly.

Letting ferry-tolls by auction.

[1]**8.** The tolls of any public ferry may, from time to time, be let by public auction for a term not exceeding five years, with the approval of the Commissioner or by public auction, or otherwise than by public auction for any term with the previous sanction of the Local Government.

The lessee shall conform to the rules made under this Act for the management and control of the ferry, and may be called upon by the officer in whom the immediate superintendence of the ferry is vested, or, if the ferry is managed by a municipal or other public body under section 7 [*or section 7A*][2] then by that body, to give such security for his good conduct and for the punctual payment of the rent as the officer or body, as the case may be, thinks fit.

When the tolls are put up to public auction, the said officer or body, as the case may be, or the officer conducting the sale on his or its behalf, may for reasons recorded in writing, refuse to accept the offer of the highest bidder and may accept any other bid, or may withdraw the tolls from auction.

Recovery of arrears from lessee.

9. All arrears due by the lessee of the tolls of a public ferry on account of his lease may be recovered from the lessee or his surety (if any) by the Magistrate of the district in which such ferry is situate as if they were arrears of land-revenue.

Power to cancel lease.

10. The Local Government may cancel the lease of the tolls of any public ferry on the expiration of six months' notice in writing to the lessee of its intention to cancel such lease.

When any lease is cancelled under this section, the Magistrate of the district in which such ferry is situate shall pay to the lessee such compensation as such Magistrate may, with the previous sanction of the Local Government, award.

Surrender of lease.

11. The lessee of the tolls of a public ferry may surrender his lease on the expiration of one month's notice in writing to the Local Government of his intention to surrender such lease, and on payment to the

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[1] S. 8 was substituted by s. 1 of the Northern India Ferries Act Amendment Act, 1886 (III of 1886), *infra*.
[2] S. 7A was inserted by the Central Provinces Local Self-Government Act, 1883 (I of 1883), and is not in force in Ajmer-Merwara. It has not therefore been printed here.

Magistrate of the district in which such ferry is situate of such compensation as such Magistrate, subject to the approval of the Commissioner, may in each case direct

12. Subject to the control of the Local Government, the Commissioner of a division, or such other officer as the Local Government may, from time to time, appoint in this behalf, by name or in virtue of his office, may, from time to time, make rules consistent with this Act— Power to make rules.

(*a*) for the control and the management of all public ferries within such division and for regulating the traffic at such ferries,

[1][(*b*) for regulating the time and manner at and in which and the terms on which, the tolls of such ferries may be let by auction, and prescribing the persons by whom auctions may be conducted],

(*c*) for compensating persons who have compounded for tolls payable for the use of any such ferry when such ferry has been discontinued before the expiration of the period compounded for, and

(*d*) generally to carry out the purposes of this Act,

and, when the tolls of a ferry have been let under section 8, such Commissioner or other officer may, from time to time (subject as aforesaid), make additional rules consistent with this Act—

(*e*) for collecting the rents payable for the tolls of such ferries;

(*f*) in cases in which the communication is to be established by means of a bridge of boats pontoons or rafts, or a swing-bridge, flying-bridge or temporary bridge, for regulating the time and manner at and in which such bridge shall be constructed and maintained and opened for the passage of vessels and rafts through the same, and

(*g*) in cases in which the traffic is conveyed in boats, for regulating—

(*1*) the number and kinds of such boats and their dimensions and equipment,

(*2*) the number of the crew to be kept by the lessee for each boat;

(*3*) the maintenance of such boats continually in good condition;

(*4*) the hours during which, and the intervals within which, the lessee shall be bound to ply, and

[1] Cl (*b*) was substituted by s 1 (2) of the Northern India Ferries Act Amendment Act, 1886 (III of 1886), *infra*

(5) the number of passengers, animals and vehicles, and the bulk and weight of other things, that may be carried in each kind of boat at one trip.

The lessee shall make such returns of traffic as the Commissioner or other officer as aforesaid may from time to time require.

Private ferry not to ply within two miles of public ferry without sanction.

13. [1][Except with the sanction of the Magistrate of the district or of such other officer as the Local Government may, from time to time, appoint in this behalf, by name or in virtue of his office, no person shall establish, maintain or work a ferry to or from any point within a distance of two miles from the limits of a public ferry]:

Provided that, in the case of any specified public ferry, the Local Government may, by notification in the official Gazette, reduce or increase the said distance of two miles to such extent as it thinks fit:

Provided also that nothing hereinbefore contained shall prevent persons plying between two places, one of which is without, and one within, the said limits, when the distance between such two places is not less than three miles, or apply to boats [2][which do not ply for hire or] which the Local Government expressly exempts from the operation of this section.

Person using approaches, etc., liable to pay tolls.

14. Whoever uses the approach to, or landing-place of, a public ferry is liable to pay the toll payable for crossing such ferry.

Tolls.

[3]**15.** Tolls, according to such rates as are from time to time fixed by the Local Government, shall be levied on all persons, animals, vehicles and other things crossing any river by a public ferry and not employed or transmitted on the public service:

Provided that the Local Government may, from time to time, declare that any persons, animals, vehicles or other things shall be exempt from payment of such tolls.

Where the tolls of a ferry have been let under section 8, any such declaration, if made after the date of the [4][lease], shall entitle the lessee to such abatement of the rent payable in respect of the tolls as may be fixed by the Commissioner of the division or such other officer as the Local Government may, from time to time, appoint in this behalf by name or in virtue of his office.

Table of tolls.

16. The lessee or other person authorized to collect the tolls of any public ferry shall affix a table of such tolls, legibly written or printed

[1] This paragraph was substituted by s. 2 of the Northern India Ferries Act Amendment Act, 1886 (III of 1886).

[2] These words were inserted, *ibid.*

[3] So far as section 15 exempts from the payment of tolls, persons, animals, vehicles or other things which are exempted by s. 3 of the Indian Tolls (Army) Act, 1901 (II of 1901), it is repealed by s. 8 of that Act, see General Acts, Vol. IV.

[4] This word was substituted for the word "auction" by the Northern India Ferries Act Amendment Act, 1886 (III of 1886), *infra.*

in the vernacular language, and also if the Commissioner of the division so directs, in English in some conspicuous place near the ferry,

and shall be bound to produce on demand, a list of the tolls, signed by the Magistrate of the district or such other officer as he appoints in this behalf.

Tolls, rents, compensation and fines how disposed of.

17. Except as provided by section 7, all tolls, rents and compensation received by or on behalf of Government, and all fines levied, under this Act shall be disposed of as follows, that is to say:—

(*a*) in the territories administered by the Lieutenant-Governor of the North-Western Provinces[1] the residue of such tolls, rents, compensation and fines, after defraying thereout all charges incurred in carrying out this Act in those territories, shall be credited to the fund constituted for those territories by the North-Western Provinces Local Rates Act, 1878[2];

(*b*) in the territories administered by the Chief Commissioner of Oudh[1] the residue as aforesaid shall be credited to the fund constituted for those territories by the Oudh Local Rates Act, 1878[3];

(*c*) in the territories respectively administered by the Lieutenant-Governor of the Punjab and the Chief Commissioner of the Central Provinces, such tolls, rents, compensation and fines shall be credited to the Local Government and applied in the first instance to defraying all charges incurred in carrying out this Act in those territories respectively, and shall then at the discretion of the Local Government,—

(*i*) be placed at the disposal of any District Board or District Boards established under the Punjab District Boards Act,
3 1883[4] or

(*ii*) be applied to any of the purposes specified in the second clause of section 5 of the Central Provinces Additional Rates Act, 1878,[5] as the case may be, and,

(*d*) in the territories respectively administered by the Chief Commissioner of Assam and the Chief Commissioner of Ajmere-Merwara, such tolls, rents, compensation and fines shall be credited to the Local Government and applied, first, to defraying all charges incurred in carrying out this Act in those territories respectively, and then to such local works and establishments likely to promote the public health,

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[1] Now the Governor of the United Provinces of Agra and Oudh.
[2] Act III of 1878 has been repealed by U. P. Act II of 1906.
[3] Act IV of 1878 has been repealed by U. P. Act V of 1894.
[4] *See* the Punjab and N. W. F. Code, Vol. I.
[5] Act X of 1878 has been repealed in Sambalpur by Ben. Act I of 1911 and elsewhere by Act IV of 1907.

comfort or convenience as the Local Government, * * * [1], may from time to time direct.

Compounding for tolls.

18. The Local Government may, if it thinks fit, from time to time fix rates at which any person may compound for the tolls payable for the use of a public ferry.

III.—Private Ferries.

Power to make rules.

19. The Commissioner of the division may, with the previous sanction of the Local Government, from time to time make rules for the ferries other than public ferries.
ferries other than public ferries.

Tolls.

20. The tolls charged at such ferries shall not exceed the highest rates for the time being fixed under section 15 for similar public ferries.

IV.—Penalties and Criminal Procedure.

Penalty for breach of provisions as to table of tolls, list of tolls and return of traffic.

21. Every lessee or other person authorized to collect the tolls of a public ferry, who neglects to affix and keep in good order and repair the table of tolls mentioned in section 16,

or who wilfully removes, alters or defaces such table, or allows it to become illegible,

or who fails to produce on demand the list of the tolls mentioned in section 16,

and every lessee who neglects to furnish any return required under section 12,

shall be punished with fine which may extend to fifty rupees.

Penalty for taking unauthorized toll, and for causing delay.

22. Every such lessee or other person as aforesaid and any person in possession of a private ferry asking or taking more than the lawful toll, or without due cause delaying any person, animal, vehicle or other thing, shall be punished with fine which may extend to one hundred rupees.

Penalty for breach of rules made under sections 12 and 19.

23. Every person breaking any rule made under section 12 or section 19 shall be punished with imprisonment for a term which may extend to six months, or with fine which may extend to two hundred rupees, or with both.

Cancelment of lease on default or breach of rules.

24. When any lessee of the tolls of a public ferry makes default in the payment of the rent payable in respect of such tolls, or has been convicted of an offence under section 23, or, having been convicted of an offence under section 21 or section 22, is again convicted of an offence under either of those sections, the Magistrate of the district

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[1] The words "subject to the control of the Governor General in Council" were omitted by s. 2 and Sch. I of the Devolution Act, 1920 (XXXVIII of 1920), General Acts, Vol. VI.

may, with the sanction of the Commissioner of the division, cancel the lease of the tolls of such ferry, and make other arrangements for its management during the whole or any part of the term for which the tolls were let.

25. Every person crossing by any public ferry, or using the approach to, or landing-place thereof, who refuses to pay the proper toll, and every person— Penalties on passengers offending.

who, with intent to avoid payment of such toll, fraudulently or forcibly crosses by any such ferry without paying the toll, or

who obstructs any toll-collector or lessee of the tolls of a public ferry, or any of his assistants, in any way in the execution of their duty under this Act; or

who, after being warned by any such toll-collector, lessee or assistant not to do so, goes or takes any animals, vehicles or other things into any ferry-boat, or upon any bridge, at such a ferry, which is in such a state or so loaded as to endanger human life or property, or

who refuses or neglects to leave, or remove any animals, vehicles or goods from, any such ferry-boat or bridge, on being requested by such toll collector, lessee or assistant to do so,

shall be punished with fine which may extend to fifty rupees.

[1]**26.** Whoever establishes, maintains or works a ferry in contravention of the provisions of section 13 shall be punished with fine which may extend to five hundred rupees, and with a further fine which may extend to one hundred rupees for every day during which the ferry is maintained or worked in contravention of those provisions. Penalty for maintaining private ferry] within prohibited limits.

27. Where the tolls of any public ferry have been let under the provisions hereinbefore contained, the whole or any portion of any fine realized under section 25 or section 26 may, notwithstanding anything contained in section 17, be, at the discretion of the convicting Magistrate or Bench of Magistrates paid to the lessee. Fines payable to lessee.

28. Whoever navigates, anchors, moors or fastens any vessel or raft, or stacks any timber, in a manner so rash or negligent as to damage a public ferry, shall be punished with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both, and the toll-collector or lessee of the tolls of such ferry or any of his assistants may seize and detain such vessel, raft or timber pending the enquiry and assessment hereinafter mentioned. Penalty for rash navigation and stacking of timber.

29. The police may arrest without warrant any person committing an offence against section 25 or section 28. Power to arrest without warrant.

[1] This section was substituted for the original section 26 by s. 2 (5) of the Northern India Ferries Act Amendment Act, 1886 (III of 1886), *infra*.

Power to try summarily.

30. Any Magistrate or Bench of Magistrates, having summary jurisdiction under Chapter XVIII[1] of the Code of Criminal Procedure, may try any offence against this Act in manner provided by that Chapter.

Magistrate may assess damage done by offender.

31. Every Magistrate or Bench of Magistrates trying any offence under this Act may enquire into and assess the value of the damage (if any) done or caused by the offender to the ferry concerned, and shall order the amount of such value to be paid by him in addition to any fine imposed upon him under this Act; and the amount so ordered to be paid shall be leviable as if it were a fine, or when the offence is one under section 28, by the sale of the vessel, raft or timber causing the damage, and of anything found in or upon such vessel or raft.

The Commissioner of the division may, on the appeal of any person deeming himself aggrieved by an order under this section, reduce or remit the amount payable under such order.

V.—MISCELLANEOUS.

Power to take possession of boats, etc., on surrender or cancellation of lease.

32. When the lease of the tolls of any ferry is surrendered under section 11 or cancelled under section 24, the Magistrate of the district may take possession of all boats and their equipment, and all other material and appliances, used by the lessee for the purposes of such ferry, and use the same (paying such compensation for the use thereof as the Local Government may in each case direct) until such Magistrate can conveniently procure proper substitutes therefor.

Similar power in cases of emergency.

33. When any boats or their equipment, or any materials or appliances suitable for setting up a ferry, are emergently required for facilitating the transport of officers or troops of Her Majesty on duty, or of any other persons on the business of Her Majesty, or of any animals, vehicles or baggage belonging to such officers, troops or persons, or of any property of Her Majesty, the Magistrate of the district may take possession of and use the same (paying such compensation for the use thereof as the Local Government may in each case direct) until such transport is completed.

Jurisdiction of Civil Courts barred.

34. No suit to ascertain the amount of any compensation payable, or abatement of rent allowable, under this Act shall be cognizable by any Civil Court.

Delegation of powers.

35. The Local Government may, from time to time, delegate, under such restrictions, as it thinks fit, any of the powers conferred on it by this Act to any Commissioner of a division or Magistrate of a district or to such other officer as it thinks fit, by name or by virtue of his office.

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[1] *See* now Chapter XXII of the Code of Criminal Procedure, 1898 (Act V of 1898).

36. [*Validation of proceedings since repeal of Regulation VI of 1819 in Punjab.*] *Rep. by the Repealing and Amending Act, 1891 (XII of 1891).*

THE HACKNEY-CARRIAGE ACT, 1879.

[ACT XIV OF 1879.]

CONTENTS.

ACT No. XIV OF 1879.[1]

[THE HACKNEY-CARRIAGE ACT, 1879.]

[*5th September, 1879.*]

An Act for the regulation and control of Hackney-carriages in certain Municipalities and Cantonments.

WHEREAS it is expedient to provide for the regulation and control of hackney-carriages in certain municipalities and cantonments; It is hereby enacted as follows:— Preamble.

1. This Act may be called the Hackney-carriage Act, 1879: Short title.

[1] For Statement of Objects and Reasons, *see* Gazette of India, 1879, Part V, p. 52, and for Proceedings in Council, *see ibid*, Supplement, pp. 49, 78 and 1141.

* * * * * *[1]

Saving.

but nothing herein contained shall affect any power conferred by any law relating to municipalities,[2] or any rule made in exercise of any such power.

Interpretation-clause.

2. In this Act—

"Hackney-carriage" means any wheeled vehicle drawn by animals and used for the conveyance of passengers which is kept, or offered, or plies, for hire; and

"committee" means a municipal committee, or a body of municipal commissioners, constituted under the provisions of any enactment for the time being in force.

Application of Act to municipalities.

3. [3][The Lieutenant-Governors of the United Provinces of Agra and Oudh and the Punjab and Burma, and the Chief Commissioners of the Central Provinces,] Assam, Ajmere and Coorg, may, by notification in the official Gazette, apply[4] this Act to any municipality in the territories administered by them respectively.

Power of committees to make rules.

When this Act has been so applied to any municipality, the committee of such municipality may, from time to time, make rules for the regulation and control of hackney-carriages within the limits of such municipality, in the manner in which, under the law[2] for the time being in force, it makes rules[5] or bye-laws for the regulation and control of other matters within such limits.

Confirmation and publication of rules.

Every rule made under this section shall, when confirmed by the [Commissioner][6] and published for such time and in such manner as the [Commissioner][6] may, from time to time, prescribe, have the force of law:

Power of Commissioner to rescind rules.

Provided that the [Commissioner][6] may, at any time, rescind any such rule.

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[1] The words "and it shall come into force at once" were repealed by the second Repealing and Amending Act, 1914 (XVII of 1914), Sch. II, General Acts, Vol. VI.

[2] For the law relating to municipalities in Ajmer-Merwara, *see* the Ajmer-Merwara Municipalities Regulation 1925, *infra*.

[3] These words were substituted for the words "The Lieutenant-Governors of the North-Western Provinces and the Punjab, and the Chief Commissioners of Oudh, the Central Provinces, British Burma," by the Amending Act, 1903 (I of 1903), General Acts, Vol. IV.

[4] For notification applying the Act to the Ajmer Municipality, *see* Gazette of India, 1881, Part II, p. 760.

[5] For rules relating to hackney-carriages in the Ajmer Municipality, *see* the Ajmer Local Rules and Orders.

[6] This word was substituted for the words "Local Government" by the Decentralisation Act, 1914 (IV of 1914), Sch. General Acts, Vol. VI.

4. The Local Government of any of the said territories may, from time to time,[1] * * * * make rules[2] for the regulation and control of hackney-carriages in any military cantonment situated in the territory administered by it[3] * * * * Power to make rules for cantonments

All rules made under this section when published for such time and in such manner as the authority making the same may, from time to time, prescribe, shall have the force of law

5. The authority making any rules under this Act may extend their operation to any railway-station, or specified part of a road, not more than six miles from the local limits of the municipality or cantonment concerned Power to extend operation of rules beyond limits of municipality or cantonment

Provided that such extension shall be made, in the case of a municipality, with the sanction of the [Commissioner] [4] and, in the case of a cantonment situate in British India, subject to the control of the [Local Government][5]

When any rules have been made under this Act for any municipality, the Local Government may, subject to the control of the Governor General in Council, extend the operation of such rules to any cantonment the boundary of which is not more than six miles distant from the boundary of such municipality

6 The rules to be made under section 3 or section 4 may, among other matters,— What rules under sections 3 and 4 may provide for

(a) direct that no hackney-carriage, or no hackney-carriage of a particular description, shall be let to hire, or taken to ply, or offered for hire, except under a license granted in that behalf;

(b) direct that no person shall act as driver of a hackney-carriage except under a license granted in that behalf;

(c) provide for the issue of the licenses referred to in clauses (a) and (b), prescribe the conditions (if any) on which such licenses shall be granted, and fix the fees (if any) to be paid therefor,

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[1] The words "subject to the control of the Governor General in Council" were repealed by the Decentralisation Act, 1914 (IV of 1914), Sch

[2] For rules relating to Hackney-carriages in the Nasirabad cantonment, see the Ajmer Local Rules and Orders *See* also Gazette of India, 1906, Part II, p 1453

[3] The words "and the Governor General in Council may from time to time make rules for the regulation and control of hackney-carriages in any place in India, but not in British India, in which British troops are cantoned" were repealed by the Cantonments Act, 1889 (XIII of 1889), which has been repealed and re-enacted by Act XV of 1910, which has also been repealed by the Cantonments Act 1924 (II of 1924), General Acts, Vol VIII

[4] This word was substituted for the words "Local Government" by the Decentralisation Act, 1914 (IV of 1914) Sch General Acts, Vol VI

[5] These words were substituted for the words "Governor General in Council" by s 2 and Sch I of the Devolution Act, 1920 (XXXVIII of 1920), General Acts Vol VI.

(*d*) regulate the description of animals, harness and other things to be used with licensed carriages, and the condition in which such carriages, and the animals, harness and other things used therewith, shall be kept, and the lights (if any) to be carried after sunset and before sunrise;

(*e*) provide for the inspection of the premises on which any such carriages, animals, harness and other things, are kept;

(*f*) fix the time for which such licenses shall continue in force, and the events (if any) upon which within such time they shall be subject to revocation or suspension;

(*g*) provide for the numbering of such carriages;

(*h*) determine the times at which, and the circumstances under which, any person keeping a hackney-carriage shall be bound to let or refuse to let such carriage to any person requiring the same;

(*i*) appoint places as stands for hackney-carriages and prohibit such carriages waiting for hire except at such places;

(*j*) limit the rates or fares, as well for time as distance, which may be demanded for the hire of any hackney-carriage; and prescribe the minimum speed at which such carriages when hired by time shall be driven;

(*k*) limit the number of persons, and the weight of property, which may be conveyed by any such carriage;

(*l*) require the owner or person in charge of any such carriage to keep a printed list of fares in English and such other language as may be prescribed, affixed inside such carriage in such place as may be determined by the rules, and prohibit the destruction or defacement of such list;

(*m*) require drivers to wear a numbered badge or ticket, and to produce their licenses when required by a Magistrate or other person authorised by the rules in this behalf, and prohibit the transfer or lending of such licenses and badges; and

(*n*) provide for the deposit of property found in such carriages, and the payment of a fee by the owner of such property on the delivery thereof to him.

Penalty for breach of rules.

7. Any person breaking any rule made under this Act shall be punished with fine which may extend to fifty rupees.

Disposal of fees and ... of

8. The amount of any fees received and the amount of any expenses incurred in giving effect to this Act shall in any municipality be credited and debited respectively to the municipal fund, and, in any cantonment where there is a cantonment fund, to such fund.

Power of Magistrate to decide

9. If any dispute arises between the hirer of any hackney-carriage and the owner or driver of such carriage as to the amount of the fare

payable by such hirer under any rule made under this Act such dispute shall upon application made in that behalf by either of the disputing parties be heard and determined by any Magistrate or bench of Magistrates within the local limits of whose jurisdiction such dispute has arisen, and such Magistrate or bench may besides determining the amount so in dispute direct that either party shall pay to the other such sum as compensation for loss of time as such Magistrate or bench thinks fit disputes regarding fares.

Any sum determined to be due or directed to be paid under this section shall be recoverable as if it were a fine [1]

The decision of any Magistrate or bench in any case under this section shall be final

When any such case is heard by a bench, any difference of opinion arising between the members of such bench shall be settled in the same manner as differences of opinion arising between such members in the trial of criminal cases

10 If at the time any dispute mentioned in section 9 arises any Magistrate or bench of Magistrates having jurisdiction in respect of such dispute is sitting within the local limits to which the rules apply, the hirer of the carriage may require the driver thereof to take him in the same to the Court of such Magistrate or bench for the purpose of making an application under that section In case of dispute, hirer may require driver to take him to Court

Any driver neglecting or refusing to comply with such requisition shall be punished with imprisonment for a term which may extend to one month or with fine not exceeding fifty rupees or with both

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THE VACCINATION ACT, 1880

[ACT XIII OF 1880]

CONTENTS

PREAMBLE

SECTIONS

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[1] As to recovery of fines *see* the General Clauses Act 1897 (X of 1897) s 25 General Acts, Vol III

ACT No. XIII of 1880.[1]

[THE VACCINATION ACT, 1880.]

[*9th July, 1880.*]

An Act to give power to prohibit inoculation and to make the vaccination of children compulsory in certain Municipalities and cantonments.

Preamble.

WHEREAS it is expedient to give power to prohibit inoculation, and make the vaccination of children compulsory in certain municipalities and cantonments; It is hereby enacted as follows:—

rt title.

1. This Act may be called the Vaccination Act, 1880: and

[1] For Statement of Objects and Reasons, *see* Gazette of India, 1880, Pt. V, p. 80; for Report of Select Committee, *see ibid*, p. 205 and for Proceedings in Council, *see ibid*, 1879, Supplement, p. 1225 and *ibid*, 1880, Supplement, pp. 566, 1204.

it shall apply only to such municipalities and cantonments situate in the territories administered respectively by the[1] Lieutenant-Governors of the North Western Provinces and the Punjab, and the[1] Chief Commissioners of Oudh, the Central Provinces, [2]British Burma, Assam, Ajmere and Coorg as it may be extended to in manner hereinafter provided — Application.

2 In this Act unless there is something repugnant in the subject or context,— — Interpretation clause

(1) the expression "Municipal Commissioners" means a body of Municipal Commissioners or a Municipal Committee constituted under the provisions of any[3] enactment for the time being in force, — "Municipal Commissioners"

(2) "parent" means the father of a legitimate child and the mother of an illegitimate child — "parent"

(3) "guardian" includes any person who has accepted or assumed the care or custody of any child — "guardian"

(4) "unprotected child" means a child who has not been protected from small-pox by having had that disease either naturally or by inoculation, or by having been successfully vaccinated, and who has not been certified under this Act to be insusceptible to vaccination — "unprotected child"

(5) "inoculation" means any operation performed with the object of producing the disease of small pox in any person by means of variolous matter — "inoculation"

(6) "vaccination-circle" means one of the parts into which a municipality or cantonment has been divided under this Act for the performance of vaccination — "vaccination circle"

(7) "vaccinator" means any vaccinator appointed under this Act to perform the operation of vaccination, or any private person authorized * * * * [4]in manner hereinafter provided to perform the same operation, and includes a "Superintendent of vaccination" — "vaccinator"

(8) "vaccination-season" means the period from time to time fixed by the Local Government for any local area under its administration by notification in the official Gazette, during which alone vaccination may be performed under this Act — "vaccination season"

3. A majority in number of the persons present at a meeting of the Municipal Commissioners specially convened in this behalf may apply to the Local Government to extend this Act to the whole or any part of a municipality, and thereupon the Local Government may, if it — Extension of Act to municipalities

[1] Now the Governor of the United Provinces of Agra and Oudh

[2] Now the Governor of Burma

[3] For the law relating to Municipalities in Ajmer Merwara, *see* the Ajmer Merwara Municipalities Regulation 1925 (VI of 1925), *infra*

[4] The words "by the Local Government" were repealed by the Decentralisation Act, 1914 (IV of 1914) Sch General Acts, Vol VI

thinks fit, by notification published in the official Gazette, declare its intention to extend this Act in the manner proposed.

Any inhabitant of such municipality or part thereof who objects to such extension may within six weeks from the date of such publication, send his objection in writing to the Secretary to the Local Government, and the Local Government shall take such objection into consideration. When six weeks from the said publication have expired, the Local Government, if no such objections have been sent as aforesaid, or (when such objections have been so sent) if in its opinion they are insufficient, may by like, notification effect the proposed[1] extension.

Extension to cantonments.

4. The Local Government may, * * * *[2], by notification in the local official Gazette, extend this Act to the whole or any part of a military[3] cantonment.

Power to withdraw local area from operation of Act.

5. The Local Government may, by notification in the official Gazette, withdraw any local area in a municipality or * * * *[2], any local area in a cantonment, from the operation of this Act.

Prohibition of inoculation.

6. In any local area to which the provisions of this Act apply, inoculation shall be prohibited; and

Inoculated persons not to enter, without certificate, local area subject to Act.

no person who has undergone inoculation shall enter such area before the lapse of forty days from the date of the operation, without a certificate from a medical practitioner, of such class as the Local Government may from time to time by written order authorize to grant such certificates, stating that such person is no longer likely to produce small-pox by contact or near approach.

Vaccination-circles.

7. Every local area to which this Act applies shall be a vaccination-circle or shall in manner hereinafter provided be divided into a number of such circles;

Vaccinators.

one or more vaccinators shall be appointed in manner hereinafter provided for each such circle; and

Superintendent of vaccination.

one or more Superintendents of vaccination shall be appointed in manner hereinafter provided for each such local area.

Private vaccinators.

8. The [4][Commissioner] may by written license authorize private vaccinators to perform vaccination in any vaccination-circle, and may suspend or cancel any such license.

Unprotected children to be vaccinated.

9. When any unprotected child, having attained the age of 6 months, has resided for a period of one month during the vaccination-season in

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[1] For notifications extending the Act to the Ajmere, Beâwar and Kekri Municipalities, *see* the Ajmere Local Rules and Orders.

[2] The words "subject to the control of the Governor General in Council" were omitted by s. 2 and Sch. I of the Devolution Act, 1920 (XXXVIII of 1920), Genl. Acts, Vol. VI.

[3] For notification extending the Act to the Nasirabad Cantonment, *see* the Ajmere Local Rules and Orders.

[4] This word was substituted for the words "Local Government" by the Decentralisation Act, 1914 (IV of 1914), Genl. Acts, Vol. VI.

any local area to which the provisions of this Act apply, and has not at the expiration of such period attained the age, if a boy, of fourteen years, and if a girl, of eight years the parent or guardian of such child shall take it, or cause it to be taken, to a vaccinator to be vaccinated or send for a vaccinator to vaccinate it

Vaccinator to vaccinate children or deliver certificates of postponement

Such vaccinator shall vaccinate the child and deliver to its parent or guardian a memorandum stating the date on which the vaccination has been performed and the date on which the child is to be inspected in order to ascertain the result of the operation or shall, if he finds such child in a state unfit for vaccination deliver to its parent or guardian a certificate under his hand to the effect that the child is in a state unfit for vaccination for the whole or part of the current vaccination season

Inspection after vaccination

10 The parent or guardian of every child which has been vaccinated under section nine shall, on the date of inspection stated in the memorandum take the child or cause it to be taken to a vaccinator for inspection, or get it inspected at his own house by a vaccinator and

such vaccinator shall then append to the memorandum a certificate stating that the child has been inspected and the result of such inspection

Procedure when vaccination is successful

11 When it is ascertained at the time of inspecting a child under section ten that the vaccination has been successful, a certificate shall be delivered by the vaccinator to the parent or guardian of such child to that effect, and such child shall thereafter be deemed to be protected

Procedure when vaccination is unsuccessful

12 When it is ascertained as aforesaid that the vaccination has been unsuccessful, the parent or guardian shall if the vaccinator so direct, cause the child to be forthwith again vaccinated and subsequently inspected in manner hereinbefore provided

Procedure when child is unfit for vaccination

13 A certificate granted under section nine showing the unfitness of a child for vaccination shall remain in force for the period stated therein, and on the termination of that period, or, if that period terminates after the vaccination season is over, when the next vaccination-season begins the parent or guardian of such child shall take the child or cause it to be taken, to a vaccinator to be vaccinated, or procure its vaccination at his own house by a vaccinator

Renewal of postponement certificates

Provided that if the child is still found to be in a state unfit for vaccination the certificate granted under section nine shall be renewed

Certificates of insusceptibility of successful vaccination

14 If the Superintendent of vaccination is of opinion that a child which has been three times unsuccessfully vaccinated is insusceptible of successful vaccination, he shall deliver to the parent or guardian of such child a certificate under his hand to that effect and the parent or guardian shall thenceforth not be required to cause the child to be vaccinated

What lymph to be used.

15. The vaccination of a child shall ordinarily be performed with such lymph as may be prescribed by the rules to be made under this Act:

Provided that,

1st, if animal-lymph is so prescribed and the parent or guardian of any child desires that such child shall be vaccinated with human lymph, it shall be so vaccinated; and

2nd, if in any local area in which animal-lymph is procurable human lymph is so prescribed, and the parent or guardian of any child desires that such child should be vaccinated with animal-lymph, and tenders to the vaccinator the amount of such fee, not exceeding one rupee, as may be fixed by such rules in this behalf, such child shall be so vaccinated.

No fee to be charged except by private vaccinator.

16. No fee shall be charged by any vaccinator except a private vaccinator to the parent or guardian of any child for any of the duties imposed on such vaccinator by or under the provisions of this Act:

Proviso.

Provided that it shall be lawful for a vaccinator to accept a fee for vaccinating a child by request of the parent or guardian elsewhere than in the circle for which such vaccinator is appointed.

Duties of Superintendent of vaccination.

17. The Superintendent of vaccination, in addition to the other duties imposed on him by or under the provisions of this Act, shall ascertain whether all unprotected children, under the age of fourteen years if boys, and under the age of eight years if girls, within the local area under his superintendence have been vaccinated; and, if he has reason to believe that the parent or guardian of any such child is bound by the provisions hereinbefore contained to procure the vaccination of such child or to present it for inspection, and has omitted so to do, he shall personally go to the house of such parent or guardian, and there make enquiry, and shall, if the fact is proved, forthwith deliver to such parent or guardian, or cause to be affixed to his house, a notice requiring that the child be vaccinated, or (as the case may be) that it be presented for inspection, at a time and place to be specified in such notice.

Notice to parent or guardian neglecting to comply with Act.

Order by Magistrate when notice not complied with.

18. If such notice is not complied with, the Superintendent of vaccination shall report the matter to the [1]Magistrate of the District, or such Magistrate as the Local Government or the Magistrate of the District may from time to time appoint in this behalf; and the Magistrate receiving such report shall summon the parent or guardian of the child and demand his explanation, and shall, if such explanation is not satisfactory, make an order in writing directing such parent or guardian to comply with the notice before a date specified in the order.

Procedure when order not obeyed.

If on such date the order has not been obeyed, the Magistrate shall summon the parent or guardian before him, and unless just cause or

[1] *See* the Code of Criminal Procedure (Act V of 1898), s. 3 (2).

excuse is shown, shall deal with the disobedience as an offence punishable under section twenty-two

Magistrates to be non official Natives

The Magistrates appointed under this section shall, as far as is conveniently practicable, be Natives of India, and not paid servants of the Government

Power to make rules for municipalities

19 When this Act has been applied to any municipality or any part thereof, the Municipal Commissioners may, from time to time, make[1] rules consistent with this Act for the proper enforcement of this Act within the limits to which it applies Such rules shall be made in the manner in which, under the [2] law for the time being in force, the [Municipal][3] Commissioners make rules or bye-laws for the regulation of other matters within the limits of the municipality and shall when confirmed by the [Commissioner][3] and published in the official Gazette, have the force of law

Provided that the [Commissioner][3] may at any time rescind or modify any such rule

Power to make rules for cantonments

20. When this Act has been applied to any cantonment or any part thereof, the Local Government may, from time to time, * * *[4], make such [5] rules

What rules under sections 19 and 20 may provide for

21. The rules to be made for any local area under section nineteen or twenty may, among other matters, provide for—

(*a*) the division of such local area into circles for the performance of vaccination,

(*b*) the appointment of a place in each vaccination circle as a public vaccine-station, and the posting of some distinguishing mark in a conspicuous place near such station,

(*c*) the qualifications to be required of public vaccinators and Superintendents of vaccination

(*d*) the authority with which their appointment, suspension and dismissal shall rest,

(*e*) the time of attendance of public vaccinators at the vaccine-stations, and their residence within the limits of the vaccination circles;

(*f*) the distinguishing mark or badge to be worn by them,

(*g*) the amount of fee chargeable by private vaccinators, and their guidance generally in the performance of their duties,

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[1] For rules for the Ajmere Municipality see the Ajmere Local Rules and Orders

[2] For the law relating to Municipalities in Ajmere Merwara see the Ajmer-Merwara Municipalities Regulation 1925 (VI of 1925) *infra*

[3] The word "Municipal" was inserted and the word 'Commissioner' substituted for the words 'Local Government' by the Decentralisation Act, 1914 (IV of 1914), Sch, Genl Acts Vol VI

[4] The words "subject to the control of the Governor General in Council" were omitted by s 2 and Sch I of the Devolution Act 1920 (XXXVIII of 1920), Genl Acts Vol VI

[5] For rules applicable to the Nasirabad Cantonment see the Ajmere Local Rules and Orders

(*h*) the facilities to be afforded to people for procuring the vaccination of their children at their own houses;

(*i*) the grant and form of certificates of successful vaccination, of unfitness for vaccination or of insusceptibility of vaccination;

(*j*) the nature of the lymph to be used and the supply of a sufficient quantity of such lymph;

(*k*) the fee to be paid for vaccination with animal-lymph under section fifteen;

(*l*) the fee to be paid to a public vaccinator for vaccinating a child beyond the vaccination-circle at the request of the parent or guardian of the said child;

(*m*) the preparation and keeping of registers showing—

the names of children born in such local area on or after the date of the application of this Act;

the names of unprotected children born in such local area previous to the application of this Act, and who are, at the time this Act is applied, under the age of fourteen years if boys, and of eight years if girls;

the names of unprotected boys and girls respectively under those ages brought within such local area at any time after the application of this Act and who have resided there for a month;

the result of each vaccination or its postponement, and the delivery of certificates, if any;

(*n*) the assistance to be given by the Municipal Commissioners and municipal servants in the preparation of these registers, and in other matters; and

(*o*) the preparation of vaccination-reports and returns.

Punishment of offences.

22. Whoever commits any of the undermentioned offences (that is to say):—

(*a*) violates the provisions of section six,

(*b*) neglects without just excuse to obey an order made under section eighteen,

(*c*) breaks any of the rules made under section nineteen or twenty, or

(*d*) neglects without just cause to obey an order made under section eighteen after having been previously convicted of so neglecting to obey a similar order made in respect of the same child,

shall be punished as follows (that is to say):—

in the case of the offence mentioned in clause (*a*), with simple imprisonment for a term which may extend to three months, or with fine which may extend to two hundred rupees, or with both;

in the case of the offences mentioned in clauses (*b*) and (*c*), with fine which may extend to fifty rupees; and

in the case of the offence mentioned in clause (*d*), with simple imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees or with both

23 The amount of all fees and fines realized, and the amount of all expenditure incurred, under this Act in any municipality shall respectively be credited to and paid from the municipal fund **Municipal funds to receive fines and meet expenditure**

THE INDIAN EASEMENTS ACT, 1882

[ACT V OF 1882]

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Licenses

ACT No. V OF 1882.[1]

[THE INDIAN EASEMENTS ACT, 1882.]

[*17th February, 1882.*]

An Act to define and amend the law relating to Easements and Licenses.

Preamble. WHEREAS it is expedient to define and amend the law relating to Easements and Licenses; It is hereby enacted as follows:—

PRELIMINARY.

Short title. **1.** This Act may be called "The Indian Easements Act, 1882":

Local extent. [2] It extends to the territories respectively administered by the Governor of Madras in Council and the Chief Commissioners of the Central Provinces and Coorg;

Commencement. and it shall come into force on the first day of July, 1882.

Savings. **2.** Nothing herein contained shall be deemed to affect any law not hereby expressly repealed; or to derogate from—

(*a*) any right of the Government to regulate the collection, retention and distribution of the water of rivers and streams flowing in natural channels, and of natural lakes and ponds, or of the water flowing, collected, retained or distributed in or by any channel or other work constructed at the public expense for irrigation;

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[1] For Statement of Objects and Reasons, *see* Gazette of India, 1880, Part V, p. 494; for Report of Select Committee, *see ibid*, 1881, Part V, p. 1021; and for Proceedings and Debates in Council relating to the Bill, *see ibid*, 1881, Supplement, pp. 687, 766; and *ibid*, 1882, Supplement, p. 172.

[2] The Act was extended to Ajmer-Merwara by notification under s. 5 of the Scheduled Districts Act, 1874 (XIV of 1874), *see* Appendix *infra*.

(b) any customary or other right (not being a license) in or over immoveable property which the Government, the public or any person may possess irrespective of other immoveable property; or

(c) any right acquired, or arising out of a relation created, before this Act comes into force.

Construction of certain references to Act XV of 1877 and Act IX of 1871.

[1]3. All references in any Act or Regulation to sections 26 and 27 of
7 the Indian Limitation Act, 1877,[2] or to sections 27 and 28 of Act No. IX of 1871,[3] shall, in the territories to which this Act extends, be read as made to sections 15 and 16 of this Act.

CHAPTER I.

OF EASEMENTS GENERALLY.

"Easement" defined.

4. An easement is a right which the owner or occupier of certain land possesses, as such, for the beneficial enjoyment of that land, to do and continue to do something, or to prevent and continue to prevent something being done, in or upon, or in respect of, certain other land not his own.

Dominant and servient heritages and owners.

The land for the beneficial enjoyment of which the right exists is called the dominant heritage, and the owner or occupier thereof the dominant owner; the land on which the liability is imposed is called the servient heritage, and the owner or occupier thereof the servient owner.

Explanation.—In the first and second clauses of this section, the expression "land" includes also things permanently attached to the earth; the expression "beneficial enjoyment" includes also possible convenience, remote advantage, and even a mere amenity; and the expression "to do something" includes removal and appropriation by the dominant owner for the beneficial enjoyment of the dominant heritage, of any part of the soil of the servient heritage or anything growing or subsisting thereon.

Illustrations.

(a) A, as the owner of a certain house, has a right of way thither over his neighbour B's land for purposes connected with the beneficial enjoyment of the house. This is an easement.

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[1] This section was substituted for the original section 3 by the Repealing and Amending Act, 1914 (X of 1914), Sch. I, General Acts, Vol. VI.

[2] Act XV of 1877 was repealed and re-enacted by the Indian Limitation Act, 1908 (IX of 1908), General Acts, Vol. IV.

[3] Act IX of 1871 was repealed by Act XV of 1877.

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and it shall come into force on the first day of July, 1882.

Savings.

2. Nothing herein contained shall be deemed to affect any law not hereby expressly repealed; or to derogate from—

(*a*) any right of the Government to regulate the collection, retention and distribution of the water of rivers and streams flowing in natural channels, and of natural lakes and ponds, or of the water flowing, collected, retained or distributed in or by any channel or other work constructed at the public expense for irrigation;

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[1] For Statement of Objects and Reasons, *see* Gazette of India, 1880, Part V, p. 494; for Report of Select Committee, *see ibid*, 1881, Part V, p. 1021; and for Proceedings and Debates in Council relating to the Bill, *see ibid*, 1881, Supplement, pp. 687, 766; and *ibid*, 1882, Supplement, p. 172.

[2] The Act was extended to Ajmer-Merwara by notification under s. 5 of the Scheduled Districts Act, 1874 (XIV of 1874), *see* Appendix *infra*.

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(*c*) any right acquired, or arising out of a relation created, before this Act comes into force

[1]**3.** All references in any Act or Regulation to sections 26 and 27 of the Indian Limitation Act, 1877,[2] or to sections 27 and 28 of Act No IX of 1871,[3] shall, in the territories to which this Act extends, be read as made to sections 15 and 16 of this Act

Construction of certain references to Act XV of 1877 and Act IX of 1871

CHAPTER I

OF EASEMENTS GENERALLY

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The land for the beneficial enjoyment of which the right exists is called the dominant heritage, and the owner or occupier thereof the dominant owner, the land on which the liability is imposed is called the servient heritage, and the owner or occupier thereof the servient owner

Dominant and servient heritages and owners

Explanation.—In the first and second clauses of this section, the expression "land" includes also things permanently attached to the earth the expression "beneficial enjoyment" includes also possible convenience, remote advantage, and even a mere amenity; and the expression "to do something" includes removal and appropriation by the dominant owner for the beneficial enjoyment of the dominant heritage, of any part of the soil of the servient heritage or anything growing or subsisting thereon

Illustrations

(*a*) A, as the owner of a certain house, has a right of way thither over his neighbour B's land for purposes connected with the beneficial enjoyment of the house This is an easement

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[1] This section was substituted for the original section 3 by the Repealing and Amending Act, 1914 (X of 1914) Sch I, General Acts, Vol VI

[2] Act XV of 1877 was repealed and re-enacted by the Indian Limitation Act, 1908 (IX of 1908) General Acts, Vol IV.

[3] Act IX of 1871 was repealed by Act XV of 1877

(*b*) A, as the owner of a certain house, has the right to go on his neighbour B's land, and to take water for the purposes of his household out of a spring therein. This is an easement.

(*c*) A, as the owner of a certain house, has the right to conduct water from B's stream to supply the fountains in the garden attached to the house. This is an easement.

(*d*) A, as the owner of a certain house and farm, has the right to graze a certain number of his own cattle on B's field, or to take, for the purpose of being used in the house, by himself, his family, guests, lodgers and servants, water or fish out of C's tank, or timber out of D's wood, or to use, for the purpose of manuring his land, the leaves which have fallen from the trees on E's land. These are easements.

(*e*) A dedicates to the public the right to occupy the surface of certain land for the purpose of passing and re-passing. This right is not an easement.

(*f*) A is bound to cleanse a watercourse running through his land and keep it free from obstruction for the benefit of B, a lower riparian owner. This is not an easement.

Continuous and discontinuous, apparent and non-apparent, easements.

5. Easements are either continuous or discontinuous, apparent or non-apparent.

A continuous easement is one whose enjoyment is, or may be, continual without the act of man.

A discontinuous easement is one that needs the act of man for its enjoyment.

An apparent easement is one the existence of which is shown by some permanent sign which, upon careful inspection by a competent person, would be visible to him.

A non-apparent easement is one that has no sign.

Illustrations.

(*a*) A right annexed to B's house to receive light by the windows without obstruction by his neighbour A. This is a continuous easement.

(*b*) A right of way annexed to A's house over B's land. This is a discontinuous easement.

(*c*) Rights annexed to A's land to lead water thither across B's land by an aqueduct and to draw of water thence by a drain. The drain would be discovered upon careful inspection by a person conversant with such matters. These are apparent easements.

(*d*) A right annexed to A's house to prevent B from building on his own land. This is a non-apparent easement.

Easement for limited time or on condition.

6. An easement may be permanent, or for a term of years or other limited period, or subject to periodical interruption, or exercisable only at a certain place, or at certain times, or between certain hours, or for a particular purpose, or on condition that it shall commence or become void or voidable on the happening of a specified event or the performance or non-performance of a specified act.

Easements restrictive of certain rights.

7. Easements are restrictions of one or other of the following rights (namely):—

Exclusive right to enjoy.

(*a*) The exclusive right of every owner of immoveable property (subject to any law for the time being in force) to enjoy and

dispose of the same and all products thereof and accessions thereto.

(b) The right of every owner of immoveable property (subject to any law for the time being in force) to enjoy without disturbance by another the natural advantages arising from its situation. Rights to advantages arising from situation.

Illustrations of the Rights referred to above.

(a) The exclusive right of every owner of land in a town to build on such land, subject to any municipal law for the time being in force.

(b) The right of every owner of land that the air passing thereto shall not be unreasonably polluted by other persons.

(c) The right of every owner of a house that his physical comfort shall not be interfered with materially and unreasonably by noise or vibration caused by any other person.

(d) The right of every owner of land to so much light and air as pass vertically thereto.

(e) The right of every owner of land that such land, in its natural condition, shall have the support naturally rendered by the subjacent soil of another person.

Explanation.—Land is in its natural condition when it is not excavated and not subjected to artificial pressure; and the "subjacent and adjacent soil" mentioned in this illustration means such soil only as in its natural condition would support the dominant heritage in its natural condition.

(f) The right of every owner of land that, within his own limits, the water which naturally passes or percolates by, over or through his land shall not, before so passing or percolating, be unreasonably polluted by other persons.

(g) The right of every owner of land to collect and dispose within his own limits of all water under the land which does not pass in a defined channel and all water on its surface which does not pass in a defined channel.

(h) The right of every owner of land that the water of every natural stream which passes by, through or over his land in a defined natural channel shall be allowed by other persons to flow within such owner's limits without interruption and without material alteration in quantity, direction, force or temperature; the right of every owner of land abutting on a natural lake or pond into or out of which a natural stream flows, that the water of such lake or pond shall be allowed by other persons to remain within such owner's limits without material alteration in quantity or temperature.

(i) The right of every owner of upper land that water naturally rising in, or falling on, such land, and not passing in defined channels, shall be allowed by the owner of adjacent lower land to run naturally thereto.

(j) The right of every owner of land abutting on a natural stream, lake or pond to use and consume its water for drinking, household purposes and watering his cattle and sheep; and the right of every such owner to use and consume the water for irrigating such land, and for the purposes of any manufactory situate thereon, provided that he does not thereby cause material injury to other like owners.

Explanation.—A natural stream is a stream, whether permanent or intermittent, tidal or tideless, on the surface of land or underground, which flows by the operation of nature only and in a natural and known course.

CHAPTER II.

The Imposition, Acquisition and Transfer of Easements.

Who may impose easements.

8. An easement may be imposed by any one in the circumstances, and to the extent, in and to which he may transfer his interest in the heritage on which the liability is to be imposed.

Illustrations.

(*a*) A is tenant of B's land under a lease for an unexpired term of twenty years, and has power to transfer his interest under the lease. A may impose an easement on the land to continue during the time that the lease exists or for any shorter period.

(*b*) A is tenant for his life of certain land with remainder to B absolutely. A cannot, unless with B's consent, impose an easement thereon which will continue after the determination of his life-interest.

(*c*) A, B and C are co-owners of certain land. A cannot, without the consent of B and C, impose an easement on the land or on any part thereof.

(*d*) A and B are lessees of the same lessor, A of a field X for a term of five years, and B of a field Y for a term of ten years. A's interest under his lease is transferable; B's is not. A may impose on X, in favour of B, a right of way terminable with A's lease.

Servient owners.

9. Subject to the provisions of section 8, a servient owner may impose on the servient heritage any easement that does not lessen the utility of the existing easement. But he cannot, without the consent of the dominant owner, impose an easement on the servient heritage which would lessen such utility.

Illustrations.

(*a*) A has, in respect of his mill, a right to the uninterrupted flow thereto, from sunrise to noon, of the water of B's stream. B may grant to C the right to divert the water of the stream from noon to sunset: provided that A's supply is not thereby diminished.

(*b*) A has, in respect of his house, a right of way over B's land. B may grant to C, as the owner of a neighbouring farm, the right to feed his cattle on the grass growing on the way: provided that A's right of way is not thereby obstructed.

Lessor and mortgagor.

10. Subject to the provisions of section 8, a lessor may impose, on the property leased, any easement that does not derogate from the rights of the lessee as such, and a mortgagor may impose, on the property mortgaged, any easement that does not render the security insufficient. But a lessor or mortgagor cannot, without the consent of the lessee or mortgagee, impose any other easement on such property, unless it be to take effect on the termination of the lease or the redemption of the mortgage.

Explanation.—A security is insufficient within the meaning of this section unless the value of the mortgaged property exceeds by one-third, or, if consisting of buildings, exceeds by one-half, the amount for the time being due on the mortgage.

11. No lessee or other person having a derivative interest may impose on the property held by him as such an easement to take effect after the expiration of his own interest, or in derogation of the right of the lessor or the superior proprietor. Lessee

12. An easement may be acquired by the owner of the immoveable property for the beneficial enjoyment of which the right is created, or on his behalf, by any person in possession of the same. Who may acquire easements

One of two or more co-owners of immoveable property may, as such, with or without the consent of the other or others, acquire an easement for the beneficial enjoyment of such property.

No lessee of immoveable property can acquire, for the beneficial enjoyment of other immoveable property of his own, an easement in or over the property comprised in his lease.

13. Where one person transfers or bequeaths immoveable property to another,— Easements of necessity and *quasi*-easements

(*a*) if an easement in other immoveable property of the transferor or testator is necessary for enjoying the subject of the transfer or bequest, the transferee or legatee shall be entitled to such easement; or

(*b*) if such an easement is apparent and continuous and necessary for enjoying the said subject as it was enjoyed when the transfer or bequest took effect, the transferee or legatee shall, unless a different intention is expressed or necessarily implied, be entitled to such easement;

(*c*) if an easement in the subject of the transfer or bequest is necessary for enjoying other immoveable property of the transferor, or testator, the transferor or the legal representative of the testator shall be entitled to such easement; or

(*d*) if such an easement is apparent and continuous and necessary for enjoying the said property as it was enjoyed when the transfer or bequest took effect, the transferor, or the legal representative of the testator, shall, unless a different intention is expressed or necessarily implied, be entitled to such easement.

Where a partition is made of the joint property of several persons,—

(*e*) if an easement over the share of one of them is necessary for enjoying the share of another of them, the latter shall be entitled to such easement; or—

(*f*) if such an easement is apparent and continuous and necessary for enjoying the share of the latter as it was enjoyed when

the partition took effect, he shall, unless a different intention is expressed or necessarily implied, be entitled to such easement.

The easements mentioned in this section, clauses (*a*), (*c*) and (*e*), are called easements of necessity.

Where immoveable property passes by operation of law, the persons from and to whom it so passes are, for the purpose of this section, to be deemed, respectively, the transferor and transferee.

Illustrations.

(*a*) A sells B a field then used for agricultural purposes only. It is inaccessible except by passing over A's adjoining land or by trespassing on the land of a stranger. B is entitled to a right of way, for agricultural purposes only, over A's adjoining land to the field sold.

(*b*) A, the owner of two fields, sells one to B, and retains the other. The field retained was at the date of the sale used for agricultural purposes only and is inaccessible except by passing over the field sold to B. A is entitled to a right of way, for agricultural purposes only, over B's field to the field retained.

(*c*) A sells B a house with windows overlooking A's land, which A retains. The light which passes over A's land to the windows is necessary for enjoying the house as it was enjoyed when the sale took effect. B is entitled to the light, and A cannot afterwards obstruct it by building on his land.

(*d*) A sells B a house with windows overlooking A's land. The light passing over A's land to the windows is necessary for enjoying the house as it was enjoyed when the sale took effect. Afterwards A sells the land to C. Here C cannot obstruct the light by building on the land, for he takes it subject to the burdens to which it was subject in A's lands.

(*e*) A is the owner of a house and adjoining land. The house has windows overlooking the land. A simultaneously sells the house to B and the land to C. The light passing over the land is necessary for enjoying the house as it was enjoyed when the sale took effect. Here A impliedly grants B a right to the light, and C takes the land subject to the restriction that he may not build so as to obstruct such light.

(*f*) A is the owner of a house and adjoining land. The house has windows overlooking the land. A, retaining the house, sells the land to B, without expressly reserving any easement. The light passing over the land is necessary for enjoying the house as it was enjoyed when the sale took effect. A is entitled to the light, and B cannot build on the land so as to obstruct such light.

(*g*) A, the owner of a house, sells B a factory built on adjoining land. B is entitled, as against A, to pollute the air, when necessary, with smoke and vapours from the factory.

(*h*) A the owner of two adjoining houses, Y and Z, sells Y to B, and retains Z. B is entitled to the benefit of all the gutters and drains common to the two houses and necessary, for enjoying Y as it was enjoyed when the sale took effect, and A is entitled to the benefit of all the gutters and drains common to the two houses and necessary for enjoying Z as it was enjoyed when the sale took effect.

(*i*) A, the owner of two adjoining buildings, sells one to B, retaining the other. B is entitled to a right to lateral support from A's building, and A is entitled to a right to lateral support from B's building.

(*j*) A, the owner of two adjoining buildings, sells one to B, and the other to C. C is entitled to lateral support from B's building, and B is entitled to lateral support from C's building.

(k) A grants lands to B for the purpose of building a house thereon B is entitled to such amount of lateral and subjacent support from A's land as is necessary for the safety of the house

(l) Under the [1] Land Acquisition Act, 1870, a Railway Company compulsorily acquires a portion of B's land for the purpose of making a siding The Company is entitled to such amount of lateral support from B's adjoining land as is essential for the safety of the siding

(m) Owing to the partition of joint property, A becomes the owner of an upper room in a building and B becomes the owner of the portion of the building immediately beneath it A is entitled to such amount of vertical support from B's portion as is essential for the safety of the upper room

(n) A lets a house and grounds to B for a particular business B has no access to them other than by crossing A's land B is entitled to a right of way over that land suitable to the business to be carried on by B in the house and grounds

Direction of way of necessity

14. When [a right][2] to a way of necessity is created under section 13, the transferor, the legal representative of the testator, or the owner of the share over which the right is exercised, as the case may be, is entitled to set out the way, but it must be reasonably convenient for the dominant owner

When the person so entitled to set out the way refuses or neglects to do so, the dominant owner may set it out

Acquisition by prescription

15. Where the access and use of light or air to and for any building have been peaceably enjoyed therewith, as an easement, without interruption, and for twenty years,

and where support from one person's land, or things affixed thereto, has been peaceably received by another person's land subjected to artificial pressure, or by things affixed thereto, as an easement, without interruption, and for twenty years,

and where a right of way or any other easement has been peaceably and openly enjoyed by any person claiming title thereto, as an easement, and as of right, without interruption, and for twenty years,

the right to such access and use of light or air, support or other easement shall be absolute

Each of the said periods of twenty years shall be taken to be a period ending within two years next before the institution of the suit wherein the claim to which such period relates is contested

Explanation I —Nothing is an enjoyment within the meaning of this section when it has been had in pursuance of an agreement with the owner or occupier of the property over which the right is claimed, and it is apparent from the agreement that such right has not been granted as an easement, or, if granted as an easement, that it has been granted for a limited period, or subject to a condition on the fulfilment of which it is to cease

[1] *See* now the Land Acquisition Act, 1894 (I of 1894) General Acts, Vol III

[2] These words were substituted for the word "right" by the Amending Act, 1891 (XII of 1891) General Acts Vol III

Explanation II.—Nothing is an interruption within the meaning of this section, unless where there is an actual cessation of the enjoyment by reason of an obstruction by the act of some person other than the claimant, and unless such obstruction is submitted to or acquiesced in for one year after the claimant has notice thereof and of the person making or authorizing the same to be made.

Explanation III.—Suspension of enjoyment in pursuance of a contract between the dominant and servient owners is not an interruption within the meaning of this section.

Explanation IV.—In the case of an easement to pollute water, the said period of twenty years begins when the pollution first prejudices perceptibly the servient heritage.

When the property over which a right is claimed under this section belongs to Government, this section shall be read as if for the words "twenty years," the words "sixty years" were substituted.

Illustrations.

(*a*) A suit is brought in 1883 for obstructing a right of way. The defendant admits the obstruction, but denies the right of way. The plaintiff proves that the right was peaceably and openly enjoyed by him claiming title thereto as an easement and as of right, without interruption, from 1st January, 1862, to 1st January 1882. The plaintiff is entitled to judgment.

(*b*) In a like suit the plaintiff shows that the right was peaceably and openly enjoyed by him for twenty years. The defendant proves that for a year of that time the plaintiff was entitled to possession of the servient heritage as lessee thereof, and enjoyed the right as such lessee. The suit shall be dismissed, for the right of way has not been enjoyed "as an easement" for twenty years.

(*c*) In a like suit the plaintiff shows that the right was peaceably and openly enjoyed by him for twenty years. The defendant proves that the plaintiff on one occasion during the twenty years had admitted that the user was not of right and asked his leave to enjoy the right. The suit shall be dismissed, for the right of way has not been enjoyed "as of right" for twenty years.

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16. Provided that, when any land upon, over or from which any easement has been enjoyed or derived has been held under or by virtue of any interest for life or any term of years exceeding three years from the granting thereof the time of the enjoyment of such easement during the continuance of such interest or term shall be excluded in the computation of the said last-mentioned period of twenty years, in case the claim is, within three years next after the determination of such interest or term, resisted by the person entitled, on such determination, to the said land.

Illustration.

A sues for a declaration that he is entitled to a right of way over B's land. A proves that he has enjoyed the right for twenty-five years; but B shows that during ten of these years C had a life-interest in the land; that on C's death B became entitled to the land; and that within two years after C's death he contested A's claim to the right. The suit must be dismissed, as A, with reference to the provisions of this section, has only proved enjoyment for fifteen years.

17. Easements acquired under section 15 are said to be acquired by prescription, and are called prescriptive rights. Rights which cannot be acquired by prescription.

None of the following rights can be so acquired:—

(*a*) a right which would tend to the total destruction of the subject of the right, or the property on which, if the acquisition were made, liability would be imposed;

(*b*) a right to the free passage of light or air to an open space of ground;

(*c*) a right to surface water not flowing in a stream and not permanently collected in a pool, tank or otherwise;

(*d*) a right to underground water not passing in a defined channel.

18. An easement may be acquired in virtue of a local custom. Such easements are called customary easements. Customary easements.

Illustrations.

(*a*) By the custom of a certain village every cultivator of village land is entitled as such to graze his cattle on the common pasture. A having become the tenant of a plot of uncultivated land in the village breaks up and cultivates that plot. He thereby acquires an easement to graze his cattle in accordance with the custom.

(*b*) By the custom of a certain town no owner or occupier of a house can open a new window therein so as substantially to invade his neighbour's privacy. A builds a house in the town near B's house. A thereupon acquires an easement that B shall not open new windows in his house so as to command a view of the portions of A's house which are ordinarily excluded from observation, and B acquires a like easement with respect to A's house.

19. Where the dominant heritage is transferred or devolves, by act of parties or by operation of law, the transfer or devolution shall, unless a contrary intention appears, be deemed to pass the easement to the person in whose favour the transfer or devolution takes place. Transfer of dominant heritage passes easement.

Illustration.

A has certain land to which a right of way is annexed. A lets the land to B for twenty years. The right of way vests in B and his legal representative so long as the lease continues.

CHAPTER III.

THE INCIDENTS OF EASEMENTS.

20. The rules contained in this Chapter are controlled by any contract between the dominant and servient owners relating to the servient heritage, and by the provisions of the instrument or decree, if any, by which the easement referred to was imposed. Rules controlled by contract or title.

Incidents of customary easements.

And when any incident of any customary easement is inconsistent with such rules, nothing in this Chapter shall affect such incident.

Bar to use unconnected with enjoyment.

21. An easement must not be used for any purpose not connected with the enjoyment of the dominant heritage.

Illustrations.

(*a*) A, as owner of a farm Y, has a right of way over B's land to Y. Lying beyond Y, A has another farm Z, the beneficial enjoyment of which is not necessary for the beneficial enjoyment of Y. He must not use the easement for the purpose of passing to and from Z.

(*b*) A, as owner of a certain house, has a right of way to and from it. For the purpose of passing to and from the house, the right may be used, not only by A, but by the members of his family, his guests, lodgers, servants, workmen, visitors and customers; for this is a purpose connected with the enjoyment of the dominant heritage. So, if A lets the house, he may use the right of way for the purpose of collecting the rent and seeing that the house is kept in repair.

Exercise of easement. Confinement of exercise of easement.

22. The dominant owner must exercise his right in the mode which is least onerous to the servient owner; and when the exercise of an easement can without detriment to the dominant owner be confined to a determinate part of the servient heritage, such exercise shall, at the request of the servient owner, be so confined.

Illustrations.

(*a*) A has a right of way over B's field. A must enter the way at either end, and not at any intermediate point.

(*b*) A has a right annexed to his house to cut thatching grass in B's swamp. A, when exercising his easement, must cut the grass so that the plants may not be destroyed.

Right to alter mode of enjoyment.

23. Subject to the provisions of section 22, the dominant owner may, from time to time, alter the mode and place of enjoying the easement, provided that he does not thereby impose any additional burden on the servient heritage.

Exception.—The dominant owner of a right of way cannot vary his line of passage at pleasure, even though he does not thereby impose any additional burden on the servient heritage.

Illustrations.

(*a*) A, the owner of a saw-mill, has a right to a flow of water sufficient to work the mill. He may convert the saw-mill into a corn-mill, provided that it can be worked by the same amount of water.

(*b*) A has a right to discharge on B's land the rain-water from the eaves of A's house. This does not entitle A to advance his eaves if, by so doing, he imposes a greater burden on B's land.

(*c*) A, as the owner of a paper-mill, acquires a right to pollute a stream by pouring in the refuse-liquor produced by making in the mill paper from rags. He may pollute the stream by pouring in similar liquor produced by making in the mill paper by a new process from bamboos, provided that he does not substantially increase the amount, or injuriously change the nature, of the pollution.

(*d*) A, a riparian owner, acquires, as against the lower riparian owners, a prescriptive right to pollute a stream by throwing sawdust into it. This does not entitle A to pollute the stream by discharging into it poisonous liquor.

24 The dominant owner is entitled, as against the servient owner, to do all acts necessary to secure the full enjoyment of the easement, but such acts must be done at such time and in such manner as, without detriment to the dominant owner, to cause the servient owner as little inconvenience as possible, and the dominant owner must repair, as far as practicable, the damage (if any) caused by the act to the servient heritage

Right to do acts to secure enjoyment

Rights to do acts necessary to secure the full enjoyment of an easement are called accessory rights

Accessory rights

Illustrations

(*a*) A has an easement to lay pipes in B s land to convey water to A's cistern A may enter and dig the land in order to mend the pipes but he must restore the surface to its original state

(*b*) A has an easement of a drain through B s land The sewer with which the drain communicates is altered A may enter upon B s land and alter the drain to adapt it to the new sewer provided that he does not thereby impose any additional burden on B s land

(*c*) A as owner of a certain house has a right of way over B s land The way is out of repair or a tree is blown down and falls across it A may enter on B s land and repair the way or remove the tree from it

(*d*) A as owner of a certain field has a right of way over B s land B renders the way impassable A may deviate from the way and pass over the adjoining land of B provided that the deviation is reasonable

(*e*) A as owner of a certain house has a right of way over B s field A may remove rocks to make the way

(*f*) A has an easement of support from B s wall The wall gives way A may enter upon B s land and repair the wall

(*g*) A has an easement to have his land flooded by means of a dam in B s stream The dam is half swept away by an inundation A may enter upon B s land and repair the dam

25 The expenses incurred in constructing works or making repairs or doing any other act necessary for the use or preservation of an easement, must be defrayed by the dominant owner

Liability for expenses necessary for preservation of easement

26 Where an easement is enjoyed by means of an artificial work, the dominant owner is liable to make compensation for any damage to the servient heritage arising from the want of repair of such work

Liability for damage from want of repair

27 The servient owner is not bound to do anything for the benefit of the dominant heritage, and he is entitled, as against the dominant owner, to use the servient heritage in any way consistent with the enjoyment of the easement, but he must not do any act tending to restrict the easement or to render its exercise less convenient

Servient owner not bound to do anything

Illustrations

(*a*) A as owner of a house has a right to lead water and send sewage through B s land, B is not bound as servient owner to clear the watercourse or scour the sewer

(*b*) A grants a right of way through his land to B as owner of a field A may feed his cattle on grass growing on the way, provided that B s right of way is not

thereby obstructed; but he must not build a wall at the end of his land so as to prevent B from going beyond it, nor must he narrow the way so as to render the exercise of the right less easy than it was at the date of the grant.

(*c*) A, in respect of his house, is entitled to an easement of support from B's wall. B is not bound as servient owner to keep the wall standing and in repair. But he must not pull down or weaken the wall so as to make it incapable of rendering the necessary support.

(*d*) A, in respect of his mill, is entitled to a watercourse through B's land. B must not drive stakes so as to obstruct the watercourse.

(*e*) A, in respect of his house, is entitled to a certain quantity of light passing over B's land. B must not plant trees so as to obstruct the passage to A's windows of that quantity of light.

Extent of easements.

28. With respect to the extent of easements and the mode of their enjoyment, the following provisions shall take effect:—

Easement of necessity.

An easement of necessity is co-extensive with the necessity as it existed when the easement was imposed.

Other easements.

The extent of any other easement and the mode of its enjoyment must be fixed with reference to the probable intention of the parties, and the purpose for which the right was imposed or acquired.

In the absence of evidence as to such intention and purpose—

Right of way.

(*a*) a right of way of any one kind does not include a right of way of any other kind;

Right to light or air acquired by grant.

(*b*) the extent of a right to the passage of light or air to a certain window, door or other opening, imposed by a testamentary or non-testamentary instrument, is the quantity of light or air that entered the opening at the time the testator died or the non-testamentary instrument was made:

Prescriptive right to light or air.

(*c*) the extent of a prescriptive right to the passage of light or air to a certain window, door or other opening is that quantity of light or air which has been accustomed to enter that opening during the whole of the prescriptive period irrespectively of the purposes for which it has been used:

Prescriptive right to pollute air and water.

(*d*) the extent of a prescriptive right to pollute air or water is the extent of the pollution at the commencement of the period of user on completion of which the right arose: and

Other prescriptive rights.

(*e*) the extent of every other prescriptive right and the mode of its enjoyment must be determined by the accustomed user of the right.

Increase of easements.

29. The dominant owner cannot, by merely altering or adding to the dominant heritage, substantially increase an easement.

Where an easement has been granted or bequeathed so that its extent shall be proportionate to the extent of the dominant heritage, if the

dominant heritage is increased by alluvion, the easement is proportionately increased, and if the dominant heritage is diminished by diluvion, the easement is proportionately diminished

Save as aforesaid, no easement is affected by any change in the extent of the dominant or the servient heritage

Illustrations

(a) A the owner of a mill, has acquired a prescriptive right to divert to his mill part of the water of a stream A alters the machinery of his mill He cannot thereby increase his right to divert water

(b) A has acquired an easement to pollute a stream by carrying on a manufacture on its banks by which a certain quantity of foul matter is discharged into it A extends his works and thereby increases the quantity discharged He is responsible to the lower riparian owners for injury done by such increase

(c) A, as the owner of a farm has a right to take for the purpose of manuring his farm, leaves which have fallen from the trees on B s land A buys a field and unites it to his farm A is not thereby entitled to take leaves to manure this field

Partition of dominant heritage

30. Where a dominant heritage is divided between two or more persons the easement becomes annexed to each of the shares, but not so as to increase substantially the burden of the servient heritage provided that such annexation is consistent with the terms of the instrument, decree or revenue proceeding (if any) under which the division was made, and in the case of prescriptive rights, with the user during the prescriptive period

Illustrations

(a) A house to which a right of way by a particular path is annexed is divided into two parts, one of which is granted to A the other to B Each is entitled in respect of his part, to a right of way by the same path

(b) A house to which is annexed the right of drawing water from a well to the extent of fifty buckets a day is divided into two distinct heritages one of which is granted to A the other to B A and B are each entitled, in respect of his heritage, to draw from the well fifty buckets a day, but the amount drawn by both must not exceed fifty buckets a day

(c) A having in respect of his house an easement of light divides the house into three distinct heritages Each of these continues to have its windows unobstructed

Obstruction in case of excessive user.

31. In the case of excessive user of an easement the servient owner may, without prejudice to any other remedies to which he may be entitled, obstruct the user, but only on the servient heritage provided that such user cannot be obstructed when the obstruction would interfere with the lawful enjoyment of the easement

Illustration

A, having a right to the free passage over B's land of light to four windows six feet by four, increases their size and number It is impossible to obstruct the passage of light to the new windows without also obstructing the passage of light to the ancient windows B cannot obstruct the excessive user

CHAPTER IV.

THE DISTURBANCE OF EASEMENTS.

Right to enjoyment without disturbance.

32. The owner or occupier of the dominant heritage is entitled to enjoy the easement without disturbance by any other person.

Illustration.

A, as owner of a house, has a right of way over B's land. C unlawfully enters on B's land, and obstructs A in his right of way. A may sue C for compensation, not for the entry, but for the obstruction.

Suit for disturbance of easement.

33. The owner of any interest in the dominant heritage, or the occupier of such heritage, may institute a suit for compensation for the disturbance of the easement or of any right accessory thereto: provided that the disturbance has actually caused substantial damage to the plaintiff.

Explanation I.—The doing of any act likely to injure the plaintiff by affecting the evidence of the easement, or by materially diminishing the value of the dominant heritage, is substantial damage within the meaning of this section and section 34.

Explanation II.—Where the easement disturbed is a right to the free passage of light passing to the openings in a house, no damage is substantial within the meaning of this section, unless it falls within the first Explanation, or interferes materially with the physical comfort of the plaintiff, or prevents him from carrying on his accustomed business in the dominant heritage as beneficially as he had done previous to instituting the suit.

Explanation III.—Where the easement disturbed is a right to the free passage of air to the openings in a house, damage is substantial within the meaning of this section if it interferes materially with the physical comfort of the plaintiff, though it is not injurious to his health.

Illustrations.

(*a*) A places a permanent obstruction in a path over which B, as tenant of C's house, has a right of way. This is substantial damage to C, for it may affect the evidence of his reversionary right to the easement.

(*b*) A, as owner of a house, has a right to walk along one side of B's house. B builds a verandah overhanging the way about ten feet from the ground, and so as not to occasion any inconvenience to foot-passengers using the way. *This is not* substantial damage to A.

34. The removal of the means of support to which a dominant owner is entitled does not give rise to a right to recover compensation, unless and until [1] substantial damage is actually sustained.

When cause of action arises for removal of support.

35. Subject to the provisions of the [2] Specific Relief Act, 1877, sections 52 to 57 (both inclusive), an injunction may be granted to restrain the disturbance of an easement—

Injunction to restrain disturbance.

(*a*) if the easement is actually disturbed,—when compensation for such disturbance might be recovered under this Chapter;

(*b*) if the disturbance is only threatened or intended,—when the act threatened, or intended must necessarily, if performed, disturb the easement.

36. Notwithstanding the provisions of section 24, the dominant owner cannot himself abate a wrongful obstruction of an easement.

Abatement of obstruction of easement.

CHAPTER V.

THE EXTINCTION, SUSPENSION AND REVIVAL OF EASEMENTS.

37. When, from a cause which preceded the imposition of an easement, the person by whom it was imposed ceases to have any right in the servient heritage, the easement is extinguished.

Extinction by dissolution of right of servient owner.

Exception.—Nothing in this section applies to an easement lawfully imposed by a mortgagor in accordance with section 10.

Illustrations.

(*a*) A transfers Sultanpur to B on condition that he does not marry C. B imposes an easement on Sultanpur. Then B marries C. B's interest in Sultanpur ends, and with it the easement is extinguished.

(*b*) A, in 1860, let Sultanpur to B for thirty years from the date of the lease. B, in 1861, imposes an easement on the land in favour of C, who enjoys the easement peaceably and openly as an easement without interruption for twenty-nine years. B's interest in Sultanpur then ends, and with it C's easement.

(*c*) A and B, tenants of C, have permanent transferable interests in their respective holdings. A imposes on his holding an easement to draw water from a tank for the purpose of irrigating B's land. B enjoys the easement for twenty years. Then A's rent falls into arrear and his interest is sold. B's easement is extinguished.

(*d*) A mortgages Sultanpur to B, and lawfully imposes an easement on the land in favour of C in accordance with the provisions of section 10. The land is sold to D in satisfaction of the mortgage-debt. The easement is not thereby extinguished.

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[1] As to meaning of "substantial damage" *see* s. 33, Explanation I, *supra*.

[2] General Acts, Vol. II. The Act was extended to Ajmer-Merwara by notification under s. 5 of the Scheduled Districts Act, 1874 (XIV of 1874), *see* Appendix, *infra*.

Extinction by release.

38. An easement is extinguished when the dominant owner releases it, expressly or impliedly, to the servient owner.

Such release can be made only in the circumstances and to the extent in and to which the dominant owner can alienate the dominant heritage.

An easement may be released as to part only of the servient heritage.

Explanation I.—An easement is impliedly released—

(*a*) where the dominant owner expressly authorizes an act of a permanent nature to be done on the servient heritage, the necessary consequence of which is to prevent his future enjoyment of the easement, and such act is done in pursuance of such authority;

(*b*) where any permanent alteration is made in the dominant heritage of such a nature as to show that the dominant owner intended to cease to enjoy the easement in future.

Explanation II.—Mere non-user of an easement is not an implied release within the meaning of this section.

Illustrations.

(*a*) A, B and C are co-owners of a house, to which an easement is annexed. A, without the consent of B and C, releases the easement. This release is effectual only as against A and his legal representative.

(*b*) A grants B an easement over A's land for the beneficial enjoyment of his house. B assigns the house to C. B then purports to release the easement. The release is ineffectual.

(*c*) A, having the right to discharge his eavesdroppings into B's yard, expressly authorizes B to build over this yard to a height which will interfere with the discharge. B builds accordingly. A's easement is extinguished to the extent of the interference.

(*d*) A, having an easement of light to a window, builds up that window with bricks and mortar so as to manifest an intention to abandon the easement permanently. The easement is impliedly released.

(*e*) A, having a projecting roof by means of which he enjoys an easement to discharge eavesdroppings on B's land permanently alters the roof, so as to direct the rain-water into a different channel and discharge it on C's land. The easement is impliedly released.

Extinction by revocation.

39. An easement is extinguished when the servient owner, in exercise of a power reserved in this behalf, revokes the easement.

Extinction on expiration of limited period or happening of dissolving condition.

40 An easement is extinguished where it has been imposed for a limited period, or acquired on condition that it shall become void on the performance or non-performance of a specified act, and the period expired or the condition is fulfilled.

Extinction on termination of necessity.

41. An easement of necessity is extinguished when the necessity comes to an end.

Illustration.

A grants B a field inaccessible except by passing over A's adjoining land. B afterwards purchases a part of that land over which he can pass to his field. The right of way over A's land which B had acquired is extinguished.

42. An easement is extinguished when it becomes incapable of being at any time and under any circumstances beneficial to the dominant owner. Extinction of useless easement

43. Where, by any permanent change in the dominant heritage, the burden on the servient heritage is materially increased and cannot be reduced by the servient owner without interfering with the lawful enjoyment of the easement, the easement is extinguished, unless— Extinction by permanent change in dominant heritage

(*a*) it was intended for the beneficial enjoyment of the dominant heritage, to whatever extent the easement should be used, or

(*b*) the injury caused to the servient owner by the change is so slight that no reasonable person would complain of it, or

(*c*) the easement is an easement of necessity.

Nothing in this section shall be deemed to apply to an easement entitling the dominant owner to support of the dominant heritage.

44. An easement is extinguished where the servient heritage is by superior force so permanently altered that the dominant owner can no longer enjoy such easement: Extinction on permanent alteration of servient heritage by superior force

Provided that, where a way of necessity is destroyed by superior force, the dominant owner has a right to another way over the servient heritage, and the provisions of section 14 apply to such way.

Illustrations

(*a*) A grants to B, as the owner of a certain house, a right to fish in a river running through A's land. The river changes its course permanently and runs through C's land. B's easement is extinguished.

(*b*) Access to a path over which A has a right of way is permanently cut off by an earthquake. A's right is extinguished.

45. An easement is extinguished when either the dominant or the servient heritage is completely destroyed. Extinction by destruction of either heritage

Illustration

A has a right of way over a road running along the foot of a sea cliff. The road is washed away by a permanent encroachment of the sea. A's easement is extinguished.

46. An easement is extinguished when the same person becomes entitled to the absolute ownership of the whole of the dominant and servient heritages. Extinction by unity of ownership

Illustrations

(*a*) A, as the owner of a house, has a right of way over B's field. A mortgages his house, and B mortgages his field to C. Then C forecloses both mortgages and becomes thereby absolute owner of both house and field. The right of way is extinguished.

(*b*) The dominant owner acquires only part of the servient heritage: the easement is not extinguished, except in the case illustrated in section 41.

(*c*) The servient owner acquires the dominant heritage in connection with a third person: the easement is not extinguished.

(*d*) The separate owners of two separate dominant heritages jointly acquire the heritage which is servient to the two separate heritages: the easements are not extinguished.

(*e*) The joint owners of the dominant heritage jointly acquire the servient heritage: the easement is extinguished.

(*f*) A single right of way exists over two servient heritages for the beneficial enjoyment of a single dominant heritage. The dominant owner acquires one only of the servient heritages. The easement is not extinguished.

(*g*) A has a right of way over B's road. B dedicates the road to the public. A's right of way is not extinguished.

Extinction by non-enjoyment.

47. A continuous easement is extinguished when it totally ceases to be enjoyed as such for an unbroken period of twenty years.

A discontinuous easement is extinguished when for a like period, it has not been enjoyed as such.

Such period shall be reckoned, in the case of a continuous easement, from the day on which its enjoyment was obstructed by the servient owner, or rendered impossible by the dominant owner; and, in the case of a discontinuous easement from the day on which it was last enjoyed by any person as dominant owner:

Provided that if, in the case a discontinuous easement, the dominant owner, within such period, registers, under the Indian Registration Act, 1877.[1] a declaration of his intention to retain such easement, it shall not III be extinguished until a period of twenty years has elapsed from the date of the registration.

Where an easement can be legally enjoyed only at a certain place, or at certain times, or between certain hours, or for a particular purpose, its enjoyment during the said period at another place, or at other times or between other hours, or for another purpose, does not prevent its extinction under this section.

The circumstance that, during the said period, no one was in possession of the servient heritage, or that the easement could not be enjoyed, or that a right accessory thereto was enjoyed, or that the dominant owner was not aware of its existence, or that he enjoyed it in ignorance of his right to do so, does not prevent its extinction under this section.

An easement is not extinguished under this section—

(*a*) where the cessation is in pursuance of a contract between the dominant and servient owners;

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[1] Repealed and re-enacted by the Indian Registration Act, 1908 (XVI of 1908) General Acts, Vol. IV.

(*b*) when the destroyed heritage is a servient building and before twenty years have expired such building is rebuilt upon the same site; and

(*c*) when the destroyed heritage is a dominant building and before twenty years have expired such building is rebuilt upon the same site and in such a manner as not to impose a greater burden on the servient heritage.

An easement extinguished under section 46 revives when the grant or bequest by which the unity of ownership was produced is set aside by the decree of a competent Court. A necessary easement extinguished under the same section revives when the unity of ownership ceases from any other cause.

A suspended easement revives if the cause of suspension is removed before the right is extinguished under section 47.

Illustration.

A, as the absolute owner of field Y, has a right of way thither over B's field Z. A obtains from B a lease of Z for twenty years. The easement is suspended so long as A remains lessee of Z. But when A assigns the lease to C, or surrenders it to B, the right of way revives.

CHAPTER VI.

LICENSES.

"License" defined.

52. Where one person grants to another, or to a definite number of other persons, a right to do or continue to do, in or upon the immoveable property of the grantor, something which would, in the absence of such right, be unlawful, and such right does not amount to an easement or an interest in the property, the right is called a license.

Who may grant license.

53. A license may be granted by any one in the circumstances and to the extent in and to which he may transfer his interests in the property affected by the license.

Grant may be express or implied.

54. The grant of a license may be express or implied from the conduct of the grantor, and an agreement which purports to create an easement, but is ineffectual for that purpose, may operate to create a license.

Accessory licenses: annexed by law.

55. All licenses necessary for the enjoyment of any interest, or the exercise of any right, are implied in the constitution of such interest or right. Such licenses are called accessory licenses.

Illustration.

A sells the trees growing on his land to B. B is entitled to go on the land and take away the trees.

56. Unless a different intention is expressed or necessarily implied, a license to attend a place of public entertainment may be transferred by the licensee, but, save as aforesaid, a license cannot be transferred by the licensee or exercised by his servants or agents

License when transferable

Illustrations

(*a*) A grants B a right to walk over A's field whenever he pleases The right is *not annexed to any immoveable property of B* The right cannot be transferred

(*b*) The Government grant B a license to erect and use temporary grain-sheds on Government land In the absence of express provision to the contrary, B's servants may enter on the land for the purpose of erecting sheds, erect the same deposit grain therein and remove grain therefrom

57. The grantor of a license is bound to disclose to the licensee any defect in the property affected by the license, likely to be dangerous to the person or property of the licensee, of which the grantor is, and the licensee is not, aware

Grantor's duty to disclose defects

58 The grantor of a license is bound not to do anything likely to render the property *affected by the license dangerous to the person or* property of the licensee

Grantor's duty not to render property unsafe.

59. When the grantor of the license transfers the property affected thereby, the transferee is not as such bound by the license

Grantor's transferee not bound by license.

60. A license may be revoked by the grantor, unless—

License when revocable

(*a*) it is coupled with a transfer of property and such transfer is in force ·

(*b*) the licensee, acting upon the license, has executed a work of a permanent character and incurred expenses in the execution

61. The revocation of a license may be express or implied

Revocation, express or implied

Illustrations

to use a path across it A, with
path The license is revoked
B to stack hay on the field A

62 A license is deemed to be revoked—

License when deemed revoked

(*a*) when, from a cause preceding the grant of it, the grantor ceases to have any interest in the property affected by the license

(*b*) when the licensee releases it, expressly or impliedly, to the grantor or his representative.

(*c*) where it has been granted for a limited period, or acquired on condition that it shall become void on the performance or non performance of a specified act, and the period expires or the condition is fulfilled.

(d) where the property affected by the license is destroyed or by superior force so permanently altered that the licensee can no longer exercise his right:

(e) where the licensee becomes entitled to the absolute ownership of the property affected by the license:

(f) where the license is granted for a specified purpose and the purpose is attained, or abandoned, or becomes impracticable:

(g) where the license is granted to the licensee as holding a particular office, employment or character, and such office, employment or character ceases to exist:

(h) where the license totally ceases to be used as such for an unbroken period of twenty years, and such cessation is not in pursuance of a contract between the grantor and the licensee:

(i) in the case of an accessory license, when the interest or right to which it is accessory ceases to exist.

Licensee's rights on revocation.

63. Where a license is revoked, the licensee is entitled to a reasonable time to leave the property affected thereby and to remove any goods which he has been allowed to place on such property.

Licensee's rights on eviction.

64. Where a license has been granted for a consideration, and the licensee, without any fault of his own, is evicted by the grantor before he has fully enjoyed, under the license, the right for which he contracted, he is entitled to recover compensation from the grantor.

ACT No. III of 1886.[1]

[The Northern India Ferries Act Amendment Act, 1886.]

[29th January, 1886.]

An Act to amend the Northern India Ferries Act, 1878.

Whereas it is expedient to amend the Northern India Ferries Act, 1878; It is hereby enacted as follows:— X 18

...stitution new ...tion for ...tion 8, and amendment of sections 12 and 15.

1. (1) For section 8 the following shall be substituted, namely:—

[*Vide supra*, p. 56.]

(2) For section 12, clause (b), the following shall be substituted, namely:—

[*Vide supra*, p. 57.]

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[1] For Statement of Objects and Reasons, *see* Gazette of India, 1885, Part V, p. 227, and for Proceedings in Council, *see ibid*, Supplement, p. 1257, and *ibid*, 1886, p. 224.

Short title, the Northern India Ferries Act Amendment Act, 1886, *see* the Amending Act, 1897 (V of 1897), General Acts, Vol. III.

(3) In the third paragraph of section 15, for the word "auction" the word "lease" shall be substituted

2 (1) For the first paragraph of section 13 the following shall be substituted, namely — Amendment of section 13 and substitution of new section for section 26

[Vide supra, p 58]

(2) In the second proviso to the said section, after the word "boats" the words "which do not ply for hire or" shall be inserted

(3) For section 26 the following shall be substituted, namely —

[Vide supra, p 61]

ACT No XVII of 1887

[The Punjab Land Revenue Act, 1887]

(Sections 33 to 40 44 to 46 and 98) [1]

(A) 33 (1) When the settlement record has been made over to the Collector under section 69 of the Ajmere Land and Revenue Regulation, 1877, he shall cause to be prepared by the patwari of each estate yearly, or at such other intervals as the Chief Commissioner may prescribe, an edition of the settlement record amended in accordance with the provisions of this Schedule [1] Annual record

(2) This edition of the settlement record shall be called the annual record for the estate, and shall comprise the third, fourth, fifth and sixth documents mentioned in section 65 of the [2] Ajmere Land and Revenue Regulation, 1877, and such other documents if any, as the Chief Commissioner may, with the previous sanction of the Governor General in Council, prescribe

(3) For the purposes of the preparation of the annual record, the Collector shall cause to be kept up by the patwari of each estate a register of mutations and such other registers as the Chief Commissioner may prescribe

(B) 34 (1) Any person acquiring by inheritance, purchase, mortgage, gift or otherwise, any right in an estate as an owner, assignee of Making of that part of the annual record which

[1] These sections were placed in a Schedule and lettered A to M and with the modifications appearing therein were extended to Ajmer Merwara by a notification under sections 5 and 5A of the Scheduled Districts Act 1874 (XIV of 1874), *see* Appendix, *infra* They are to be read as part of the Ajmere Land and Revenue Regulation, 1877 (II of 1877), *infra*, and expressions used in them are to have the same meaning as in that Regulation For the full text of Act XVII of 1887, *see* the Punjab and N W F Code

[2] *Infra*

relates to owners, assignees of revenue and occupancy tenants.

land-revenue or tenant with a right of occupancy, shall report his acquisition of the right to the patwári of the estate.

(2) If the person acquiring the right is a minor or otherwise disqualified, his guardian or other person having charge of his property shall make the report to the patwári.

(3) The patwári shall enter in his register of mutations every report made to him under sub-section (1) or sub-section (2), and shall also make an entry therein respecting the acquisition of any such right as aforesaid which he has reason to believe to have taken place, and of which a report should have been made to him under one or other of those sub-sections and has not been so made.

(4) A Revenue-officer shall from time to time inquire into the correctness of all entries in the register of mutations and into all such acquisitions as aforesaid coming to his knowledge of which, under the foregoing sub-sections, report should have been made to the patwári and entry made in that register, and shall in each case make such order as he thinks fit with respect to the entry in the annual record of the right acquired.

(5) Such an entry shall be made by the insertion in that record of a description of the right acquired and by the omission from that record of *any entry in any record previously prepared which by reason of the* acquisition has ceased to be correct.

Making of that part of the annual record which relates to other persons.

(C) 35. The acquisition of any interest in land other than a right referred to in sub-section (1) of section B of this [1] Schedule shall,—

(1) if undisputed, be recorded by the patwári in such manner as the Chief Commissioner may by rules in this behalf prescribe; and,

(2) if disputed, be entered by the patwári in the register of mutations and dealt with in the manner prescribed in sub-sections (4) and (5) of section B of this Schedule.[1]

Determination of disputes as to entries in settlement records, ..al ..s ; registers ..iations.

(D) 36. (1) If during the preparation of a settlement record or an annual record or in the course of any inquiry under Part III (B) of the [2] Ajmere Land and Revenue Regulation, 1877, or under section B or C of this Schedule [1] a dispute arises as to any matter of which any entry is to be made in such record or in a register of mutations, a Revenue-officer may, of his own motion or on the application of any party interested, but subject to the provisions of section F of this Schedule [1] and after such inquiry as he may think fit, determine the entry to be made as to that matter.

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(2) If in any such dispute the Revenue-officer is unable to satisfy himself as to which of the parties thereto is in possession of any property

[1] *See* the first footnote to this Act, *supra*.
[2] *Infra*.

to which the dispute relates, he shall ascertain by summary inquiry who is the person best entitled to the property and shall, by order, direct that that person be put in possession thereof, and that an entry in accordance with that order be made in the record or register.

Mode of contesting orders as to entries other than entries referred to in Regulation II, 1877, s. 67.

Any person who considers himself aggrieved by any entry in an annual record or register of mutations, or by any direction as to possession made under sub-section (2) of section D of this Schedule[1] may appeal to the authorities to whom an appeal lies under the [2]Ajmere Land and Revenue Regulation, 1877, or when the entry is one in the third or fourth document mentioned in section 65 of that Regulation, or in the case of such a direction as aforesaid, may, either instead of so appealing, or if dissatisfied with the order passed on his appeal by any such authority, bring a suit in the Civil Court against any other persons interested in such entry or direction to have such entry amended or such direction reversed or varied.

Restrictions on variation of entries in records.

(E) 37. Entries in settlement records or in annual records except entries made in annual records by patwaris under clause (1) of section C of this Schedule[1] with respect to undisputed acquisitions of interests referred to in that section shall not be varied in subsequent records otherwise than by—

(a) making entries in accordance with facts proved or admitted to have occurred;

(b) making such entries as are agreed to by all the parties interested therein or are supported by a decree or order, binding on those parties;

(c) making new maps where it is necessary to make them.

Mutation fees.

(F) 38. (1) The Chief Commissioner may fix a scale of fees for all or any classes of entries in a settlement record annual record or register of mutations and for copies of any such entries.

(2) A fee in respect of any entry shall be payable by the person in whose favour the entry is made.

Fine for neglect to report acquisition of any right referred to in section B.

(G) 39. Any person neglecting to make the report required by section B of this Schedule[1] within three months from the date of his acquisition of a right referred to in that section shall be liable, at the discretion of the Collector, to a fine not exceeding five times the amount of the fee which would have been payable according to the scale fixed under section G of this Schedule[1] if the acquisition of the right had been reported immediately after its accrual.

[1] See the first footnote to this Act, *supra*.

[2] *Infra*.

Recovery of fees and fines.

(I) 98. Any fee payable under section G, or fine imposed under section H, of this Schedule[1] shall be recoverable as if it were an arrear of land-revenue and as if the person from whom it is due were a defaulter in respect of such an arrear.

Obligation to furnish information necessary for the preparation of records.

(J) 40. Any person whose rights, interests or liabilities are required to be entered in a settlement record or annual report shall be bound to furnish on the requisition of any Revenue-officer, supervisor, kanungo or patwári engaged in compiling the record, all information necessary for the correct compilation thereof.

Presumption in favour of entries in settlement records and annual records.

(K) 44. Any entry made in a settlement record or in an annual record in accordance with the law for the time being in force and the rules thereunder shall be presumed to be true until the contrary is proved or a new entry is lawfully substituted therefor.

Suit for declaratory decree by person aggrieved by an entry in a record.

(L) 45. Any person who considers himself aggrieved as to any right of which he is in possession, by an entry in a settlement record or in an annual record, may institute a suit for a declaration of his right.

Power to make rules respecting records and other matters connected therewith.

(M) 46. The Chief Commissioner may, subject to the control of the Governor General in Council, make rules—

(*a*) prescribing the language in which settlement records, annual records and registers of mutations and other prescribed registers are to be made;

(*b*) prescribing the form of those records and registers, and the manner in which they are to be prepared, signed and attested;

(*c*) for the survey of land so far as may be necessary for the preparation and correction of those records and registers;

(*d*) for the conduct of inquiries by Revenue-officers under Part III (B) of the [2]Ajmere Land and Revenue Regulation, 1877, or under section B or C of this Schedule;[1] and Reg. 187

(*e*) generally for the guidance of Revenue-officers, supervisors, kanungos and patwáris in matters pertaining to records and registers mentioned or referred to in this Schedule.[1]

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[1] *See* the first footnote to this Act, *supra*.
[2] *Infra*.

ACT No XXXI OF 1930[1]

[THE AJMER-MERWARA COURT-FEES (AMENDMENT) ACT, 1930]

[*25th July, 1930*]

An Act further to amend the Court-fees Act, 1870, in its application to Ajmer-Merwara, for a certain purpose

WHEREAS it is expedient further to amend the Court fees Act, 1870, in its application to Ajmer-Merwara, for the purpose hereinafter appearing, It is hereby enacted as follows —

1. (*1*) This Act may be called the Ajmer-Merwara Court-fees (Amendment) Act, 1930 **Short title and extent**

(*2*) It shall apply to Ajmer-Merwara only

2. To paragraph ii of section 7 of the Court-fees Act, 1870, the following proviso shall be added, namely — **Amendment of section 7, Act VII of 1870**

"Provided that, in suits by widows for maintenance such value shall be deemed to be the amount claimed to be payable for one year"

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[1] For Statement of Objects and Reasons *see* Gazette of India 1929 Pt V, p 234, for Report of Select Committee *see* Gazette of India 1930, Pt V, p 55

PART III.

REGULATIONS MADE UNDER SECTION 1 OF THE GOVERNMENT OF INDIA ACT, 1870 (33 VICT., C. 3)[1] AND UNDER SECTION 71 OF THE GOVERNMENT OF INDIA ACT IN FORCE IN AJMER-MERWARA

THE AJMER TALUQDARS' RELIEF REGULATION, 1872

[REG IV OF 1872]

CONTENTS

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[1] The Statute 33 Vict c 3 is printed in the Collection of Statutes relating to India Ed 1913 Vol I p 423 Section 1 of the Statute was declared applicable to Ajmer Merwara by Resolution of the Secretary of State for India in Council dated the 16th March 1871 *see* Gazette of India, 1871, Part I, p 398 The Government of India Act, 1870 has been repealed by the Government of India Act 1915 (5 & 6 Geo 5 c 61) and section 71 of the latter Statute re-enacts section 1 of the former The consolidated Act is now known as the Government of India Act

PART III.

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[REG. IV OF 1872.]

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[1] The Statute 33 Vict., c. 3, is printed in the Collection of Statutes *relating to* India Ed 1913, Vol I, p 423 Section 1 of the *Statute was declared applicable* to Ajmer-Merwara by Resolution of the Secretary of State *for India in Council* dated the 16th March, 1871, *see* Gazette of India, *1871, Part I, p. 338 The Government* of India Act, 1870, has been *repealed by the Government of India Act*, 1915 (5 & 6 Geo 5, c 61), and section 71 of the latter Statute *re-enacts section 1* of the former. The consolidated *Act is now known as the Government of India* Act.

REGULATION No. IV OF 1872.

[THE AJMER TALUQDARS' RELIEF REGULATION, 1872.]

A Regulation for the relief of the embarrassed Taluqdars, Thakúrs and Jagirdars of Ajmere.

(Published in the Gazette of India, 1872, Part I, p. 894, and in the Rajputana Official Gazette of 7th October, 1872, p. 1.)

le. WHEREAS most of the Taluqdars, Thakúrs and Jagirdars of the districts of Ajmere are deeply in debt and their immoveable property is subject to mortgages, charges, liens and other incumbrances;

and whereas it is expedient to provide for their relief in manner hereinafter appearing;

and whereas a draft of this Regulation has been proposed by the Chief Commissioner of Ajmere to the Governor General in Council and such draft has been taken into consideration and approved of by the Governor General in Council, and assented to by the Governor General under section 1 of the [1]Statute 33 of Victoria, cap 3,

It is hereby enacted as follows —

Interpretation clause

1. In this Regulation "Chief Commissioner" means the Chief Commissioner of Ajmere

"Commissioner" means the Commissioner of Ajmere and

"Taluqdar, Thakur or Jagirdar" means a person whose name is entered in the Schedule hereto annexed

Application for benefit of Regulation

2. Whenever, within twelve months after this Regulation has been proclaimed in the District of Ajmere, any Taluqdar, Thakur or Jagirdar, or (when such Taluqdar, Thakur or Jagirdar is an infant or of unsound mind, or an idiot) his guardian, committee or other legal curator, addresses the Commissioner in writing, stating that he is subject to, or that his immoveable property is charged with, debts or liabilities other than debts due or liabilities incurred to Government, and requesting that the provisions of this Regulation shall be applied to his case, he shall be required to present an application in writing to the Commissioner

Contents of application

3. The application shall contain the following particulars, and the statements therein contained shall be verified by the applicant or some other competent person in manner required by law for the verification of plaints —

(a) the amount of the applicant's debts and liabilities, with all mortgages, charges, liens and other encumbrances affecting his property, expressed in Government rupees

(b) the estimated amount of his annual income expressed in Government rupees

(c) the amount of Government revenue chargeable on his property, including the amount (if any) still remaining due on account of any advances made to him by Government:

(d) the particulars of his debts and liabilities with the interest (if any) due to date

(e) a declaration that the list of his debts includes all his pecuniary liabilities, personal or otherwise, of which he is aware

(f) a declaration that he has been made acquainted with the provisions of this Regulation, and is anxious to have his property managed under it, and agrees to abide by the provisions contained herein and in the rules made hereunder

[1] Printed in Collection of Statutes relating to India, Ed 1913 Vol I p 423 The Statute has been repealed and re-enacted by the Government of India Act, 1915, see footnote to the heading of Part III of this Code, on p 105, *supra*.

Procedure on receipt of application.

4. On receiving any such application the Commissioner may, by order published in the local Gazette, declare the immoveable property of the Taluqdar, Thakúr or Jagirdar to be under the management of his Court.

Consequences of notice.

5. On such publication all proceedings in respect to such debts or liabilities which may then be pending in any Civil Court in British India shall be barred; and all processes, executions and attachments for, or in respect of, such debts or liabilities shall become null and void.

Bar of jurisdiction of certain Courts in respect of property under management.

6. So long as such management continues, all Civil Courts, except the Court of the Commissioner, shall be precluded from entertaining any application, petition or suit respecting such property:

Provided that nothing herein contained shall prevent the Commissioner referring any such case for investigation and decision by any Court subordinate to him:

And, when such application, petition or suit has been referred to such Court, it shall be guided by the rules for the time being in force relating to Civil Procedure,[1] except that no orders as to the mode of execution of any decree passed in the suit shall be made by such Court:

And, when such Court has passed its decision (subject to the ordinary right of appeal in civil cases), such Court or Appellate Court shall certify its final decision to the Commissioner, who shall proceed to pass such order for its execution as shall be just and expedient with reference to other claims admitted against the property.

Service of notice on claimants.

7. When the property has been declared under rule 4 to be under the management of the Court, notice shall be served on every creditor mentioned in the application to be present in the Commissioner's Court, on a convenient date to be fixed by the Commissioner, and to produce proof of the amount due to such creditor.

Publication of notice.

8. At the same time a notice shall be published in the local Gazette, calling on all persons having claims on the property, or on the Taluqdar, Thakúr or Jagirdar personally to appear before the Commissioner within three months from the date of the publication and substantiate their claims.

Claimant failing to appear within time appointed.

If any such claimant fail so to appear within that period, his claim shall be barred:

Provision for admission of claim within further period of nine months.

Provided that, when proof is made to the Commissioner that the claimant was unable so to appear, the Commissioner may admit such claim within the further period of nine months from the expiration of the said period of three months.

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[1] *See* now the Code of Civil Procedure, 1908 (Act V of 1908). The Code has been extended by notification under s. 5 of the Scheduled Districts Act, 1874 (XIV of 1874), to Ajmer-Merwara, *see* Appendix, *infra*.

9. All notices under the Regulation shall be published in English, Urdu and Hindi in the local Gazette, and in such other manner as the Commissioner may direct — Languages in which notice to be published

10. Every claimant shall with his claim present full particulars thereof — Claim to contain full particulars

Every document on which he relies in support of his claim shall also be filed in the Commissioner's Court — documents to be filed

If the document be an entry in any book, the claimant shall produce the book in Court, together with a copy of the entry on which he relies the book shall be marked by the Commissioner for the purpose of identification, and after the copy has been examined and compared with the original, the book itself shall be returned — Entries in books

11 If the debt be acknowledged by the debtor, and there be no reason to believe that any collusion exists between the creditor and the debtor, then the amount of such debt shall be entered in the schedule of debts admitted against the property — Procedure in respect of debt admitted.

12 If the debt be denied, or the amount be disputed, or collusion fraud or extortion be suspected, the Commissioner may refuse so to enter the whole debt or such portion thereof as he thinks fit — Procedure in respect of disputed debt or where collusion etc, suspected

13 If the Commissioner sees fit he may refer the suit for the whole debt or any portion thereof to any Court subordinate to him for investigation and decision — Investigation of claim

Provided that the creditor shall file in the Commissioner's Court a stamp paper of the value prescribed by the Court fees Act, 1870,[1] for the plaint in a suit for such debt or portion — Proviso

14 If the Commissioner does not see fit to refer the case to a subordinate Court, the creditor may appeal against the Commissioner's order refusing to enter his debt, or any portion thereof, to the Chief Commissioner, whose decision thereon shall be final — Appeal against order refusing to enter debt

15 The Commissioner shall prepare a schedule of such debts and liabilities and a scheme for the settlement thereof, and shall submit such scheme for the sanction of the Chief Commissioner — Schedule of debts and liabilities and scheme for settlement

16 When the Chief Commissioner has sanctioned the scheme so submitted it shall be announced to the creditor and to the Taluqdar Thakur or Jagirdar concerned, and shall then be carried into effect — Procedure on sanction of scheme

17 Every scheme so sanctioned shall provide— — What scheme to provide for

(a) for the due maintenance of the Taluqdar, Thakur or Jagirdar, and his family, and

(b) for the payment of the Government dues in respect of the property and for any expenditure that may be deemed necessary for its repairs and improvement

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[1] General Acts, Vol I

and shall declare—

(*c*) whether any creditors, and, if any, what creditors, have a preferential right on the property, and, if so, what is the nature of such preferential right and how it is to be exercised:

(*d*) when and how the remaining creditors shall be paid: and

(*e*) what rate of interest, if any, shall be paid on the debts mentioned in the schedule until they are liquidated.

Power in respect of property in possession of mortgagee.

18. If the property or any part thereof be in the possession of a mortgagee, the Commissioner shall have power to cause the same to be delivered to such person as the Commissioner thinks fit, as if a decree therefor had been made in his favour, but without prejudice to the mortgagee preferring his claim under the provisions herein contained.

Power to raise money for settlement of debt.

19. The Commissioner shall have power to raise any money which may be required for the settlement of the debts or liabilities to which the Taluqdar, Thakúr or Jagirdar is subject, or with which his immoveable property or any part thereof is charged, either

by mortgage of the whole of the interest of the Taluqdar, Thakúr or Jagirdar in such property or any part thereof, or

by letting by way of mortgage the same property or any part thereof for a term not exceeding twenty years from the date of the letting:

Proviso.

Provided that, in the former case, the previous consent of the Chief Commissioner shall have been obtained, and that in the latter case the previous consent of the Taluqdar, Thakúr or Jagirdar shall have been obtained.

Appointment of Taluqdar, etc., to be manager of his property.

20. It being desirable to retain the authority and position of the Taluqdar, Thakúr or Jagirdar, while arrangements are in force for relieving his property of encumbrances, the Commissioner may, if he thinks fit, appoint the Taluqdar, Thakúr or Jagirdar to be manager of his property, subject to the conditions and stipulations contained in the scheme submitted to, and sanctioned by, the Chief Commissioner.

Continuance of Taluqdar as manager, contingent on his observance of conditions imposed.

21. So long as such conditions and stipulations are complied with, the Taluqdar, Thakúr or Jagirdar shall be left in undisturbed possession of his property.

Non-observance of conditions.

22. If any such conditions or stipulations be not complied with by the Taluqdar, Thakúr or Jagirdar, the Commissioner shall, in the first instance, warn him that the management of the property will be taken out of his hands if he continue to fail in such compliance.

Procedure on further default.

23. If after this further default be made, the Commissioner may, with the previous sanction of the Chief Commissioner, appoint a manager of the property other than the Taluqdar, Thakúr or Jagirdar.

Taluqdar, etc superseded in management incompetent to grant receipts

24 From the date of such appointment the Taluqdar, Thakur or Jagirdar shall be incompetent to grant valid receipts for the rents and profits of any kind arising or accruing from his property

Powers of manager

25. From such date the manager shall have, for the purpose of realizing and recovering the rents and profits of the property and for general management the same powers as the Taluqdar, Thakur and Jagirdar had for such purpose previously to his removal from the management of his property

Disabilities of Taluqdar, etc during period of management.

26. During the management of his property by the Court, no Taluqdar, Thakur or Jagirdar shall have power to borrow money, or to alienate his property, or any part thereof, nor shall he be bound by any contract made by him during such management unless it is in writing, and has been entered into with the consent of the Commissioner and bears the Commissioner's official signature and seal

Accounts to be kept.

27. An account in English and Hindi of all claims admitted and payments made in each case under this Regulation shall be kept in the Commissioner's Court, and the Taluqdar Thakur or Jagirdar and also all his creditors and their respective representatives in interest, may, at all convenient times, inspect such account

Cancellation of documents in proof of claim.

28 Every document filed under this Regulation by a creditor in proof of his claim shall after the claim has been admitted and entered in the schedule be defaced or cancelled by writing across it the fact under the official signature and seal of the Commissioner

Power to enforce attendance of witnesses

29 For the purposes of this Regulation the Commissioner may enforce the attendance of witnesses, and compel them to give evidence by the same means and as far as possible, in the same manner as is provided in the case of a Civil Court by the Code of Civil Procedure [1]

Power to administer oath or affirmation

30 The Commissioner may administer an oath or affirmation in such form as he thinks fit to any person examined before him touching any of the matters to be enquired into under this Regulation

Investigation to be judicial proceeding

31 Every investigation conducted by the Commissioner with reference to any claim preferred before him under this Regulation, or to any matter connected with any such claim, shall be deemed a judicial proceeding within the meaning of the Indian Penal Code

and statement to be evidence

And every statement made by any person examined by or before the Commissioner with reference to such investigation, whether upon oath or otherwise, shall be deemed evidence within the meaning of the same Code

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[1] Now the Code of Civil Procedure, 1908 (Act V of 1908), *see* footnote to s 6, *supra*

THE SCHEDULE—*concluded.*

List of Taluqdars, Thakúrs and Jagirdars in the Ajmere District.

No.	Name of individual.	Caste.	Name of village or villages in Taluqa.	Remarks.
	Taluqdars—*concluded.*			
77	Esree Singh	Rajput	Taluqdar, Sularee.	
78	Luchman Singh	Ditto	Ditto, Gobindgurh.	
79	Nahur Singh	Ditto	Ditto, Bagsooree.	
80	Sumruth Singh and Roog Nath Singh.	Ditto	Ditto, Boobanea.	
81	Futteh Singh	Ditto	Ditto, Munohurpoor.	
82	Phool Singh and Suman Singh.	Ditto	Ditto, Kureil	Istimrardars.
83	Chuttur Singh	Ditto	Ditto, Richmalean.	
84	Jogeo Dass	Ditto	Ditto, Meywarea.	
85	Buhhisn Singh	Ditto	Ditto, Seethun.	
86	Shumsher Khan	Cheeta	Rajoseo	Istimrardar.
87	Hemta Khan and Shumsher Khan.	Ditto	Nowsur	Istimrardars.
88	Roopa, Meyda, Dulla and Roogha.	Ditto	Ajayur	Ditto.
89	Roopa, Jodha and Akha	Ditto	Khareikree	Ditto.
	Jagirdars.			
1	Dewan Gyaluddeen Ali Khan Deewanjee, Sujjada Nusheen.	..	Hokran Kishunpoora.	
2	Meer Imam Ali	..	Dilwarra.	
3	Enayat-oollah Shah	..	Doodiana.	
4	Nizam Ali and Surfraz Ali, sons of Irshad Ali.	..	Jhurwassa.	
5	Meer Hufeez Ali, Moorwullee Durgah, Meer Wazeer Ali	..	Morajhurree and Buneoree.	
6	Mahomed Hossein and Ameer Ali.	..	Ditto ditto.	
7	Yoosoof Ali and Wazeer Ali.	..	Nandla.	
8	Nawab Abdol Kureem Khan.	Pathan	Deoranthoo, Bohraj, Quzaeepoora and Seetowuryan.	
9	Rajah Bulwant Singh, Bukhtawur Singh and Onar Singh.	Rajput	Gugwana, Oontra and Mugra.	
10	Salug Ram Joshee	Brahman	Mungliawass.	
11	Raja Deebee Singh, Rajgurh.	Rajput	Jagirdar, Kotheeaj.	
12	Purmanund Dhoodhadharee.	Byragee	Bhugwanpoora and Lalla Khera.	
13	Gokulpooree Gosain	Gossain	Chawundea.	
14	Shurf-ood deen Inaet-ool-lah Shah.	Sayad	Akhree.	
15	Ashruf Ali, Surfaraz Ali and Assad Ali.	Ditto	Ganahera.	
16	Meer Nizam Ali, Wazeer Ali.	Ditto	Hathee Khera.	

THE AJMERE FOREST REGULATION, 1874

[Reg VI of 1874]

CONTENTS

REGULATION No. VI of 1874.[1]

[The Ajmere Forest Regulation, 1874.]

A Regulation to provide for the establishment of State Forests in Ajmere and Merwara, and to prevent the indiscriminate felling of trees and removal of jungle in Merwara.

(Published in the Gazette of India, 1874, Part I, p. 618, and in the Rajputana Official Gazette of 2nd January, 1875, p. 2.)

Preamble. Whereas, by a Resolution passed by the Secretary of State in Council on the sixteenth day of March, 1871, the provisions of the 33rd of Victoria, chapter 3[2] were declared applicable to Ajmere and Merwara:

And whereas the Chief Commissioner of Ajmere has proposed to the Governor General in Council a draft of the following Regulation, together with the reasons for proposing the same:

And whereas the Governor General in Council has taken such draft and reasons into consideration, and has approved of such draft, and the same has received the Governor General's assent:

In pursuance of the direction contained in the said section, the said Regulation is now published in the Gazette of India, and will be published in the local Gazette, and will thereupon have the force of law:—

Preliminary.

Short-title. **1.** This Regulation may be called the Ajmere Forest Regulation, 1874.

Interpretation clause. **2.** In this Regulation, unless there be something repugnant in the subject or context,—

the expression "villagers" includes the members of the proprietary body of any village, and any other persons or class of persons who may, by a written order of the Commissioner, subject to the control of the Chief Commissioner, be declared entitled to the status of villagers under this Regulation;

the expression "Forest-officer" means any person or persons whom the Chief Commissioner of Ajmere from time to time appoints[3] to exercise the powers and perform the duties hereby conferred and imposed on a Forest-officer;

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[1] As to the application of Reg. VI of 1874 to estate commons, *see* Chap. II of Ajmer-Merwara Private Forests Regulation, 1892 (I of 1892), *infra*.

[2] The Govt. of India Act, 1870, in collection of Statutes relating to India, Ed. 1913, Vol. I, p. 423, *see* footnote to the heading of Part III of this Code, *supra*.

[3] For notification appointing the Assistant Commissioner of Ajmer-Merwara to be Forest-officer, *see* the Ajmere Local Rules and Orders.

and the expression "cattle" includes also elephants, camels, buffaloes, horses, mares, geldings, ponies, colts, fillies, mules, asses, pigs, rams, ewes, sheep, lambs, goats and kids.

Taking up of Land under this Regulation.

3. Whenever it appears to the Chief Commissioner of Ajmere expedient that any tract of waste or hilly land comprised in the area of any village should be taken up by the Government for the purposes of a State-forest, a [1]declaration in the form given in Schedule A hereto annexed, or to the like effect, and describing the land by its boundaries, or otherwise with convenient certainty, shall be published in the local Gazette, and a copy of such declaration in Hindi together with a written explanation in Hindi of the terms as hereinafter laid down on which the land is taken by the Government, shall be delivered to the lambardars of the village. Declaration for taking up land.

4. Such declaration shall be conclusive evidence as to the nature and condition of the land and as to the expediency of taking it up; Legal effect of such declaration.

and on its publication in the local Gazette the following consequences shall ensue:—

(a) the proprietary right to the land shall vest in the Crown, and, in lieu of all rights which any person may now have in or to such land, the rights hereinafter in that behalf mentioned shall be reserved to the villagers;

(b) the Forest-officer may enter and take possession;

(c) subject to the rules and limitations in the next following section provided, the undermentioned rights over the land may be exercised by the villagers, that is to say— Rights created in favour of villagers—

(i) a right to enter upon the land to cut grass thereon; to cut grass,

(ii) a right to enter upon the land to cut such wood as is reasonably necessary for their household requirements and agricultural implements; to cut wood,

(iii) a right to use all such ways of a defined and permanent character over the land as were in use by them at the time the declaration was published and are still adapted for use. to use ways.

5. The rights vested in the villagers under section 4 shall be exercised subject to the control of the Forest-officer, who may from time to Villagers' rights to be exercised

[1] For a list of these notifications, see the Ajmere Local Rules and Orders.

(*Taking up of Land under this Regulation.*)

under control of Forest-officer.

time, among other things, and subject to an appeal to the Commissioner of Ajmere,—

(*a*) issue written orders, determining the seasons at which grass may be cut and the mode of cutting it, and prohibiting the cutting of it in any part of the land where such cutting would tend to damage the trees there growing;

(*b*) issue written orders determining the season when, and the place where, wood is to be cut;

(*c*) stop any way across the land, and assign another way instead of it, provided that the new way set out by him be a reasonably convenient substitute for the way so stopped.

Payment of nett profits resulting from State-forest-operations.

6. There shall be distributed among and paid to those who, previous to the taking up of the land, were interested therein, the following proportions of the nett profits (if any) from time to time resulting from the State-forest-operations on the land, after deducting all expenses of management, namely, of profits from operations other than the working of mines and quarries—two-thirds; of profits from the working of the mines and quarries—one-half.

The amount of such profits, the times at which they are payable, the persons entitled to participate in them, the shares claimable by such persons and the mode of distribution, shall be determined by the said Commissioner, subject to the control of the said Chief Commissioner, by a declaration in writing, and such declaration shall be final and conclusive as against all persons concerned.

Forfeiture of part of profits, for misconduct.

7. If the members of any village-community, or any other persons entitled to a share of profits under such declaration, have interfered with or obstructed the State-forest-operations, or have not rendered such assistance to the Forest-officer as may be lawfully required of them, the said Chief Commissioner may direct that there shall be withheld from them a sum not exceeding one-half of the profits which would otherwise have accrued to them or to the village-community of which they are members, and such sum shall be withheld accordingly, and shall be credited to the Forest Department.

No fine to be levied for cattle-trespass on unprotected forest.

8. When any land has been taken up for a State-forest under this Regulation, no fine shall be levied in respect of any trespass by cattle thereon until the Forest-officer has efficiently protected that portion in which grazing is prohibited, by fencing, or, with the Commissioner's sanction, demarcated it by conspicuous [illegible] which have been duly notified in the vicinity. But this sec[illegible] ot apply [illegible] cattle have been wilfully caused to trespas[illegible] or a[illegible] in charge of them.

(Taking up of Land under this Regulation.—Relinquishment of Land taken up under this Regulation.—Restriction of the Right of felling Trees and making Charcoal.)

9. The Chief Commissioner of Ajmere may, by a notification in the local Gazette, make rules[1] consistent with this Regulation for the management and protection of State-forests created under the provisions herein contained, and may, by a similar notification, from time to time alter, add to or rescind such rules. He may, in making any such rule, attach to the breach of it, in addition to any other consequences that would ensue from such breach, a punishment, on conviction before a Magistrate, of a fine not exceeding, for the first offence, rupees fifty, and for the second or any subsequent offence, rupees one hundred. Power to make rules.

Relinquishment of Land taken up under this Regulation.

10. Whenever it appears to the said Chief Commissioner that a tract of land taken up under this Regulation is no longer required for the purposes of a State forest, a declaration in the form given in Schedule B hereto annexed, or to the like effect, and describing the land by its boundaries, or otherwise with convenient certainty, shall be published in the local Gazette, and a copy of the same in Hindi shall be delivered to the lambardars of each village within the area of which any portion of such land was originally included. Declaration for relinquishing land.

11. After publishing such declaration, the Commissioner of Ajmere shall, as soon as conveniently may be, proceed to restore the land so disforested to the communities or persons to whom it belonged before it was afforested so far as the change of circumstances will permit, and subject to such charges for works of permanent improvement effected by the Government as to the said Commissioner seems proper. Restoration of land disforested.

For this purpose he shall issue an order in writing specifying the communities or persons to whom each portion of the disforested land is to be restored, and their interests therein, and the nature and incidence of the charges thereon. Such order shall be binding and conclusive on all parties concerned.

Restriction of the Right of felling Trees and making Charcoal.

12. The Chief Commissioner of Ajmere may, by a notification in the local Gazette, make rules for the prevention of charcoal-burning and destruction of trees in the vicinity of the State forests or in other places where these practices may in his opinion be injurious. In issuing such rules due regard will be had to proprietary rights. Chief Commissioner may make rules.

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[1] For rules for the management and protection of forests, *see* the Ajmere Local Rules and Orders.

For rules as to grazing and grass-cutting in State-forests, *see* Gazette of India, 1903, Pt. II, p. 313, *ibid*, 1908, Pt. II, p. 592.

Application to have transfer under section 89 (*b*) made absolute.

90. When a transfer is made under section 89, clause (*b*), and the amount of the arrear is not repaid within twelve years from the date thereof, the transferee may apply to the Collector to publish a notification declaring that if such amount is not repaid to the transferee within one year from the date of such notification, such transfer will become absolute.

Proceedings thereon.

The Collector may, if he thinks fit, publish such notification, and, if the amount of the arrear is not so repaid before the expiration of one year from the date of such notification, the transfer shall become absolute.

Joint and several liability not affected by transfer.

91. No proceedings taken under sections 86 to 90, inclusive, shall affect the joint and several liability of the malguzars of the estate in which they are taken, for arrears accruing on such estate subsequently to the transfer of the holding of the defaulting malguzar, except that, as regards all such arrears the transferee shall stand in the place of such malguzar.

(*F*).—*Sequestration of the Estate with Cancellation of Settlement, Leases, etc.*

Notification preliminary to sequestration.

92. When any arrear of land-revenue due in respect of an estate remains unpaid for more than one month, the Collector may, with the previous sanction of the Chief Commissioner, cause to be published and served upon the person concerned a notification announcing that, unless such arrear is paid within fifteen days from the date thereof, he will sequester such estate or such portion thereof as may be specified in such notification.

Order of sequestration.

93. If such arrear is not paid within fifteen days from the date of such notification, the Collector * * * * * * *[1] may make an order directing that such estate or portion be sequestered, and the defaulters excluded therefrom for a period not exceeding fifteen years from the date of such order, and not extending beyond the term of settlement.

Effect of such order.

94. On an order of sequestration being passed under section 93, the following consequences shall ensue:—

(*a*) the execution of any other process taken for the realization of the arrear from the excluded defaulters shall be suspended;

(*b*) the settlement of the estate shall be cancelled;

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[1] The words "with the previous sanction of the Commissioner" were repealed by the Ajmere Amending Regulation, 1914 (II of 1914), *infra*.

(c) all liens, leases and other incumbrances created by such defaulters, or by any person through whom they claim, over the estate or portion thereof sequestered may, at the option of the Collector, be cancelled;

(d) the Collector may take possession of such estate or portion thereof and either appoint an agent to manage it or let it in farm on such terms as the Chief Commissioner may by rule prescribe;

(e) all persons in occupation of any land comprised in such estate or portion thereof shall be bound to pay rent at such rates as the Collector may in his discretion from time to time think proper to fix.

95. On the expiry of the period of sequestration, the estate or portion thereof sequestered shall revert to the excluded defaulters without payment by them of the arrear for which it was sequestered. Expiry of period of sequestration.

(G).—*Miscellaneous.*

96. When an arrear of revenue cannot be recovered by any of the processes hereinbefore described, the Collector may with the previous sanction of the Chief Commissioner order the attachment under sections 82 to 85, inclusive, of any immoveable property of the defaulters other than that in respect of which such arrear has accrued, and may apply the provisions of those sections to such property until such arrear is discharged. Recovery of arrears by attachment of immoveable property other than estate.

97. The provisions of this Part shall, as far as may be, apply to the recovery of the following, that is to say:— Recovery of—

(a) land revenue due at the time when this Regulation comes into operation; land revenue due.

(b) rent payable to the Government in respect of land owned by the Government or held under direct management in exercise of the powers conferred by sections 62, 82 and 94 or otherwise; rent on Government land, etc.;

(c) fees, costs or other money payable under this Regulation or under any rule made in exercise of a power conferred by this Regulation. other moneys.

(H).—*Recovery of Revenue through Headmen.*

98. In any estate in which headmen have been appointed, the remaining malguzars shall be bound, on demand made by the headmen Other malguzars to pay to headmen.

fifteen days before an instalment of revenue falls due, to pay to such headmen the portions of such instalment which as between themselves are chargeable to their holdings respectively.

But no proceedings shall be instituted or maintained by a headman for the recovery of any sum so chargeable to a holding in an estate after the Collector has informed such headmen that the Government demand on such estate has been remitted to an amount equal to such sum, and that such remission has been granted with special reference to such holding.

Distraint abolished.

99. The power of distraint now exercisable by village-headmen as such shall cease to exist.

Joinder of defendants in suits for arrears.

100. A village-headmen may sue one or more co-sharers in the same suit for sums demandable on account of the same instalment of revenue.

PART V.

OF COURTS OF WARDS.

101 to **105**. [*Rep. Regulation I of 1888*[1].]

PART VI.

MISCELLANEOUS.

Erection and repair of boundary-marks.

106. A Revenue-officer may, by a notice in writing, require any person liable for the revenue of any land, or entitled to hold such land free of revenue, to erect boundary-marks sufficient for defining the limits of such land, or to repair any such boundary-marks already existing; and, if such person fails to comply with his requisition within a period to be specified in such notice, may cause the work to be done, and recover the cost thereof as if it were an arrear of revenue due in respect of such land.

Additional powers which may be conferred on Revenue-officers.

107. In addition to the powers directly conferred on Revenue-officers by this Regulation, the Chief Commissioner may, subject to any restrictions imposed by the Governor General in Council, invest any Revenue-officer by name or by office for any of the purposes of this Regulation with any of the following powers, to be exercised by him in any part of the territories to which this Regulation extends, and in any specified class of cases:—

(*a*) any of the powers specified in the 4th section of the Land Acquisition Act, 1870[2]; X of 1

(*b*) any power exercised by a Civil Court in the trial of suits;

[1] The Ajmere Government Wards Regulation, 1888, *infra*.
[2] *See* now the Land Acquisition Act, 1894 (I of 1894), General Acts, Vol. III.

(*c*) power to refer any matter in dispute, which he is required by this Regulation to decide, to arbitration, whether with or without the consent of the parties, and to delegate to the arbitrators all powers necessary for the investigation and decision of such matter,

(*d*) power to hear appeals from the decisions of arbitrators in matters referred under clause (*c*),

(*e*) power to delegate the exercise of any power or the performance of any duty to a subordinate Revenue officer,

(*f*) power to review any decision or order given by him which is not open to appeal, or from which, if open to appeal, no appeal has been preferred,

(*g*) power to call for the proceedings of any subordinate officer, and review any order or decision given therein, which is not open to appeal, or from which, if open to appeal, no appeal has been preferred

Functions of Collector, how discharged.

108. Except as may, from time to time, be otherwise directed in the exercise of a power conferred by any enactment for the time being in force, the functions of a Collector under any enactment for the time being in force shall, in any part of the said territories, be discharged by the officer who may be appointed Collector for such part under this Regulation.

Chief Commissioner's power of revision

109. The Chief Commissioner may call for the record of any proceedings had by any Revenue officer, and may pass such order thereon consistent with this Regulation as he thinks fit

Additional power to make rules.

110. In addition to the other matters for which the Chief Commissioner is empowered by this Regulation to make rules, he may, from time to time, make rules[1] consistent with this Regulation—

(*a*) for the assessment of the land-revenue,

(*b*) for the investigation of claims to exemption from such assessment or to assignments of land-revenue,

(*c*) for the appointment and removal of circle-headmen, village-headmen and patels,

(*d*)[2] to determine the persons by whom, the time, place and manner at or in which, anything to be done under this Regulation, and for which no express provision is made in these respects, shall be done, and to regulate the procedure

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[1] For rules under s 110 in conjunction with s 73 for the assessment and payment of land revenue, *see* Gazette of India, 1911, Pt II, p 815, *ibid*, 1915, Pt II p 203

[2] For rules under s 110 (*d*) as to Patwáris Girdawars and Registrar Girdawars in Ajmer-Merwara, *see* Gazette of India, 1913, Pt I, p 511, *ibid*, 1917, Pt II, p. 1134

of Revenue-officers and arbitrators acting under this Regulation in all cases;

(e) for the investigation by the higher Revenue-officers of charges of misconduct preferred against Revenue-officers of lower grade;

(f) to determine the fees to be charged for the service of process issued under this Regulation, and to regulate the costs in all proceedings before Revenue-officers;

(g) to determine the form of any notice or notification required by this Regulation to be served or published, and the mode in which such notice shall be served or published; and

(h) generally to carry out the provisions of this Regulation.

Power to prescribe penalty for breaches of rules.

111. The Chief Commissioner may, in making any rule under this Regulation, attach to the breach of it, in addition to any other consequences that would ensue from such breach, a punishment, on conviction before a Magistrate, not exceeding rigorous or simple imprisonment for a term not exceeding one month, or fine not exceeding two hundred rupees, or both.

Rules how to be published.

112. No rule made by the Chief Commissioner under this Regulation shall take effect until it has been published in the [official][1] Gazette.

Force of rules.

All such rules when so published shall, in so far as they are consistent with this Regulation, have the force of law.

Consolidation and republication of rules.

113. The Chief Commissioner shall, at least once in every three years, cause all such rules still in force to be arranged in some convenient order according to their subject-matter, consolidated, and, where necessary, amended.

[2] The rules so arranged, consolidated and amended, shall be published in the [official][1] Gazette, and, upon such publication, all rules previously made under this Regulation shall cease to be in force.

First appeals.

114. Except as hereinbefore otherwise provided, an appeal shall lie from every order and decision given under any of the provisions hereinbefore contained—

(a) when such order or decision is given by any Revenue-officer other than the Commissioner or a Collector—to the Collector or to such other officer as the Chief Commissioner may direct to hear such appeals;

[1] This word was substituted for the word "Rajputana" in ss. 112 and 113 by the Ajmere Amending Regulation, 1893 (IX of 1893), *infra*.

[2] For consolidated set of rules under s. 113, *see* Gazette of India, 1914, Pt. II, p. 1255.

(*b*) when such order or decision is given by [a Collector other than the Commissioner] [1]—to the Commissioner;

(*c*) when such order or decision is given by the Commissioner—to the Chief Commissioner.

115. If in any case the order or decision given in appeal under clause (*a*) or clause (*b*) of section 114 reverses or modifies the original order or decision on a point material to the merits of the case, and is not hereinbefore declared to be final, the Commissioner or Chief Commissioner, as the case may be, may receive a second appeal if on perusal of the grounds of appeal, and of copies of the orders or decisions already given, a further consideration of the case appears to him to be requisite for the ends of justice. Second appeals.

116. The period of limitation for an appeal under section 114 or section 115, shall begin to run from the date of the order or decision appealed against, and shall be as follows, that is to say:— Limitation of appeals.

(*a*) when such appeal lies to the Commissioner or Chief Commissioner, sixty days;

(*b*) in other cases, thirty days.

In other respects the limitation of such appeals shall be governed by
7. the provisions of the Indian Limitation Act, 1877.[2]

117. Every order or decision given in first appeal, confirming the original order or decision, shall, subject to the powers of review and revision conferred under section 107 and by section 109, be final. Order in first appeal, when confirming original decision, final.

118. Notwithstanding anything contained in the Pleaders, Muktars,
5. and Revenue Agents Act, 1865,[3] no certificate authorizing any person to practise as a Revenue agent shall be granted under that Act after the passing of this Regulation. No certificates for Revenue-agents to be granted.

119. Except as hereinbefore expressly provided,— Proceedings under Regulation not to be impeached.

(*a*) everything done, ordered or decided by the Governor General in Council, Chief Commissioner or a Revenue-officer under this Regulation, shall be deemed to have been legally and rightly done, ordered or decided;

(*b*) no Civil Court shall entertain any suit or application instituted or presented with a view to obtaining any order or decision which the Governor General in Council, the Chief Commissioner or a Revenue-officer is under this Regulation empowered to make or pronounce. Limitation of jurisdiction of Civil Courts.

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[1] These words were substituted for the words "the Collector" by the Ajmere Amending Regulation, 1914 (II of 1914), *infra*.

[2] *See* now the Indian Limitation Act, 1908 (IX of 1908), General Acts, Vol. IV.

[3] *See* now the Legal Practitioners Act, 1879 (XVIII of 1879), General Acts, Vol. II.

THE AJMERE LAWS REGULATION, 1877.

[REG. III OF 1877.]

CONTENTS.

CHAPTER IV

MISCELLANEOUS

FIRST SCHEDULE — *Acts repealed* [*Repealed*]

SECOND SCHEDULE — REGULATIONS IN FORCE

REGULATION No. III OF 1877.

[THE AJMERE LAWS REGULATION, 1877.]

A Regulation to declare and amend the law in force in Ajmere and Merwara.

(*Published in the Gazette of India, 1877, Part I, page 636, and in the Rajputana Official Gazette, 1878, page 45.*)

Preamble.

WHEREAS it is expedient to declare and amend certain portions of the law in force in Ajmere and Merwara; It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY AND GENERAL.

Short title.

1. This Regulation may be called the Ajmere Laws Regulation, 1877.

Local extent.

It extends to the territories now under the administration of the Chief Commissioner of Ajmere, and to which the provisions of the 33rd of Victoria,[1] cap. 3, section 1, have been applied;

Commencement.

And it shall come into operation on such date[2] as the said Chief Commissioner, with the previous sanction of the Governor General in Council, may, by a notification in the Gazette of India, direct.

2. [*Repeal of enactments.*] *Rep. Act XII of 1927.*

Regulations to be deemed to be in force.

3. The Regulations specified in the second schedule hereto annexed shall be deemed to be in force throughout the said territories to the extent mentioned in the third column of the said schedule.

But the powers and functions incident to the operation of the said Regulations, so far as such powers and functions are referred to in the fourth column of the said schedule, shall be exercised and discharged by the authority mentioned in that column.

ules of cision in ases of certain classes.

4. In questions regarding succession, special property of females, betrothal, marriage dower, adoption, guardianship, minority, bastardy, family-relations, wills, legacies, gifts, partitions, or any religious usage or institution, the rule of decision shall be the Muhammadan law in cases where the parties are Muhammadans, and the Hindu law in cases where the parties are Hindus, except in so far as such law has been by legislative enactment altered or abolished, or is opposed to the provisions of this Regulation:

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[1] The Government of India Act, 1870, printed in Collection of Statutes relating to India, Ed. 1913, Vol. I, p. 423. *See* footnote to heading of Pt. III of this Code.

[2] The 1st January 1878, *see* Gazette of India, 1877, Pt. I, p. 712.

Provided that, when among any class or body of persons or among the members of any family any custom prevails which is inconsistent with the law applicable between such persons under this section, and which, if not inconsistent with such law, would have been given effect to as legally binding, such custom shall, notwithstanding anything herein contained, be given effect to.

5. In cases not provided for by section 4 of this Regulation, or by any other law for the time being in force, the Courts shall act according to justice, equity and good conscience. Rule in cases not expressly provided for.

CHAPTER II.

PRE-EMPTION.

6. The right of pre-emption is a right of the persons hereinafter mentioned or referred to, to acquire in the cases hereinafter specified immoveable property in preference to all other persons. Right of pre-emption.

7. Unless the existence of any custom or contract to the contrary is proved, such right shall, whether recorded in the settlement-record or not, be presumed— Presumption as to its existence.

(*a*) to exist in all village-communities, however constituted, and

(*b*) to extend to the village-site, to the houses built upon it, to all lands and shares of lands within the village-boundary, and to all transferable rights affecting such lands.

8. The right of pre-emption shall not be presumed to exist in any town or any sub-division thereof, but may be shown to exist therein, or in any sub-division thereof, and to be exercisable therein by such persons and under circumstances as the local custom prescribes. Its existence in towns to be proved.

9. If the property to be sold or foreclosed is a proprietary tenure, or a share of such a tenure, the right to buy or redeem such property belongs, in the absence of a custom to the contrary,— Devolution of right when property to be sold or foreclosed is proprietary tenure.

1st, to co-sharers of such tenure, in order of their relationship to the vendor or mortgagor;

2ndly, to co-sharers of the whole mahal in the same order; and

3rdly, to any member of the village-community.

Where two or more persons are equally entitled to such right, the person to exercise the same shall be determined by lot.

Notice to pre-emptors.

10. When any person proposes to sell any property or when he forecloses a mortgage upon any property in respect of which any persons have a right of pre-emption, he shall give notice to the persons concerned of the price at which he is willing to sell such property, or of the amount due in respect of such mortgage, as the case may be.

Such notice shall be given through the Court or some one of the Courts (where there is more than one such Court) in which, under the law for the time being in force, a suit to recover possession of the property might be instituted, and shall be deemed sufficiently given if it be stuck up on the *chaupal* or other public place of the village or town in which the property is situate.

Loss of right of pre-emption.

11. Any person having a right of pre-emption in respect of any property proposed to be sold shall lose such right, unless within three months from the date of such notice he or his agent pays or tenders the price aforesaid to the person so proposing to sell.

Right of pre-emptor on foreclosure.

12. When the right of pre-emption arises in respect of the foreclosure of a mortgage, any person entitled to such right may, at any time within three months after the giving of the notice required by section 10, pay or tender to the mortgagee or his successor in title the amount specified in such notice, and shall thereupon acquire a right to purchase the property.

On completion of the purchase, the person exercising the right of pre-emption shall be bound to pay to the mortgagee or his successor in title the amount specified in such notice, together with interest on the principal sum secured by the mortgage, at the rate specified by the instrument of mortgage, for any time which has elapsed since the date of the notice, and any additional costs which may have been properly incurred by the mortgagee or his successor in title.

Suit to enforce right of pre-emption.

13. Any person entitled to a right of pre-emption may bring a suit to enforce such right on any of the following grounds, namely:—

(*a*) that no due notice was given as required by section 10 of this Regulation;

(*b*) that tender was made under section 11 or section 12 of this Regulation, and refused;

(*c*) in the case of a sale, that the price stated in the notice was not fixed in good faith;

(*d*) in the case of a mortgage, that the amount claimed by the mortgagee was not really due on the footing of the mortgage and was not claimed in good faith, and that it exceeds the fair market-value of the property mortgaged.

If, in the case of a sale, the Court finds that the price was not fixed in good faith, the Court shall fix such price as appears to it to be the fair market-value of the property sold

If, in the case of a mortgage, the Court finds that the amount claimed by the mortgagee was not really due on the footing of the mortgage, and that it was not claimed in good faith, and that it exceeds the fair market-value of the property mortgaged, the amount to be paid to the mortgagee shall not exceed what the Court finds to be such market-value.

14. If the Court find for the plaintiff, the decree shall specify a day on or before which the purchase-money or the amount to be paid to the mortgagee shall be paid Decree to fix time for payment

15. If such purchase-money or amount is not paid into the Court before it rises on that day, the decree shall become void, and the plaintiff shall, so far only as relates to such sale or mortgage, lose his right of pre-emption over the property to which the decree relates Effect of non payment of purchase money.

CHAPTER III

Criminal Law and Police

16. When an offence has been, or may reasonably be supposed to have been, committed, whether within or beyond British territory, and whether by British subjects or others, and the tracks of the persons who may reasonably be supposed to have committed such offence, or of any animal or property reasonably supposed to be connected with such offence, are followed to a spot within the immediate vicinity of any village, the residents of such village shall render every assistance in carrying on such tracks. Villagers to aid in tracking

17. The trackers of the village or locality where the offence was committed and the sufferers from the same shall continue with the trail, until the tracks have been acknowledged by some village through the lands of which they pass. Duty of complainant and his trackers;

18. The trackers of each village within the lands of which the tracks are found shall accompany the trail until the tracks have been acknowledged by some village further on in which the said tracks are found. of other trackers.

19. When the tracks cease to be discernible, the trackers then in charge shall proceed at once to the nearest police-station, and make a report of the case. Procedure when tracks are lost.

20. If the inhabitants of any village fail to give forthwith the assistance required by section 16 of this Regulation, or if they do not afford full opportunity for search in their houses for the offenders or Power to fine villager for breach of track law.

property, or if it appears that they or any of them were conniving at the offence, or at the escape of the offenders, or at the removal or concealment of the property, and the offenders or the property cannot be traced beyond such village, the [1][District Magistrate] may inflict a fine upon such village not exceeding five hundred rupees, except in the case of property exceeding five hundred rupees in amount or value being stolen, when the fine may be of any amount not exceeding the value of such property.

Appeal from order under section 20.

21. An appeal shall lie to the [2][Chief Commissioner] against every order imposing a fine under section 20 of this Regulation.

Award of compensation for injury.

22. The [1][District Magistrate] may direct that the fine imposed under section 20 of this Regulation, or any portion of such fine, be awarded to any person injured by the offence in compensation for such injury.

Reward to tracker.

Where stolen property is recovered through the agency of a tracker, such property shall not be restored to the owner till he has paid to the tracker such reward not exceeding one-quarter of the value of the property recovered, as the [1][District Magistrate] may direct.

Responsibility of landholders and farmers.

23. Landholders and farmers are responsible for maintaining the peace and for apprehending all disturbers of it in their respective estates and farms, and they shall do all in their power to prevent the commission, within their respective estates and farms, of dacoity, robbery, murder, house-breaking, theft and other such offences; and on the occurrence within such estates and farms of any such offence, shall do their utmost to apprehend the offenders, and shall pursue them if they have fled.

Villagers to aid in apprehending offenders.

24. Inhabitants of villages through or near which the pursuit may lie shall join in the pursuit and afford all possible assistance towards the apprehension of the offender and the recovery of the stolen property (if any).

Liabilities of villagers.

25. The inhabitants of a village shall not, as a general rule, be bound to make good to any person the loss sustained by him by robbery, dacoity or theft committed within the limits of such village; but, if the inhabitants of such village be found to have neglected any of the rules laid down in section 23 of this Regulation, they shall be liable collectively to pay to such person such sum, not exceeding the amount of such loss, as the [1][District Magistrate] may fix with reference to the circumstances of the case, the degree of negligence, and the capabilities of such inhabitants to pay.

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[1] These words were substituted for the words "Magistrate of the district" by the Ajmere Amending Regulation, 1914 (II of 1914), *infra*.
[2] These words were substituted for the word "Commissioner", *ibid*.

Lambardar to keep register of new cattle brought to village.

26. The lambardar of each village, or, where there are several lambardars, such one of them as the [1][District Magistrate] may direct, shall keep a register in which he shall enter a description of all new cattle brought to the village in such form as the Chief Commissioner may, by rule,[2] prescribe.

Every person bringing new cattle to the village shall, within twenty-four hours of their arrival there, unless prevented by some circumstance beyond his control, take them before the said lambardar for registration.

Recovery of money paid under award of Court of Vakils.

27. When an award is made by the Rajputana Court of Vakils against the British Government on account of fine, blood-money or compensation, or otherwise, the [1][District Magistrate] may, * * * * * * * *[3] recover the said amount or any part thereof from any person convicted, whether by the said Court or by a Criminal Court in British India, of the offence on account of which such award was made, or from any village or person liable to fine or to the payment of compensation for such offence under section 20 or section 25 of this Regulation.

Recovery of fines, etc., payable under chapter.

28. All sums payable under this Chapter may be recovered by the [1][District Magistrate] in the manner prescribed for the realization of fines by the Code of Criminal Procedure.[4]

Indian Penal Code to apply to certain offences.

29. The provisions of the Indian Penal Code and the Acts amending it shall apply to every offence committed before the first day of January, 1862, in any part of the territory to which this Regulation extends, and which, at the time such offence was committed, was part of British India.

Police may apprehend members of armed band.

30. The police may apprehend and keep in custody, pending orders from the Chief Commissioner, any person who, there may be reason to believe, belongs to a band of armed men united together for the purpose of committing an offence, whether such offence is to be committed in British territory or elsewhere.

Power to invest Istimrardar, etc., with powers of Police-officer.

31. The Chief Commissioner may invest any Istimrardar or other person with any or all the powers which may be exercised by a Police-officer under any Act for the time being in force in the territories to which this Regulation extends, and may prescribe the limits within which such powers may be exercised.

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[1] These words were substituted for the words "Magistrate of the district" by the Ajmere Amending Regulation, 1914 (II of 1914), *infra*.

[2] For notification prescribing forms of registers to be kept by Lambardars, *see* Ajmer Local Rules and Orders.

[3] Words repealed by Regulation II of 1914 are omitted.

[4] *See* now the Code of Criminal Procedure (Act V of 1898).

CHAPTER IV.

MISCELLANEOUS.

Claims under contracts of dower.

32. When any claim is made under a contract of dower entered into by a Muhammadan husband, whether such claim is made during his life-time or after his death, and whether it is a claim made by a plaintiff, or a claim by way of set-off or lien made by a defendant, the Court shall allow such amount only as appears to be reasonable with reference to the means of such husband, anything to the contrary in such contract notwithstanding.

Amount of interest to be decreed.

33. The amount of interest which may be decreed in any suit instituted in any Civil Court for the period prior to the date of the suit shall not exceed the amount of the principal sum of money received by the defendant from the plaintiff or the persons whom the plaintiff represents.

Slaughter of animals and sale of beef.

34. The Chief Commissioner may, from time to time, make rules regulating and restricting the slaughter of animals and the sale of beef or other meat.

In case of emergency the [1][District Magistrate] subject to the control of the [1][Chief Commissioner], may issue orders of a similar nature, to remain in force for any period he may fix not exceeding one month.

Sale of flesh or shooting, etc., within limits of any religious place.

35. Where the sale of flesh, or shooting, or killing animals is, at the time this Regulation comes into force, prohibited within the limits of any religious place by order of the Magistrate of the district [2]* * * * * * * * such prohibition shall continue unless or until otherwise ordered by the Chief Commissioner.

36. [*Manufacture of salt.*] *Rep. Act XII of 1882.*

37. [*Confiscation of salt manufactured without license.*] *Rep. Act XII of 1882.*

Recovery of revenue other than land-revenue.

38. The Chief Commissioner may * * * * * * * *[3] invest any officer by name or office with all or any of the powers conferred by the Ajmere Land and Revenue Regulation, 1877,[4] for the recovery of Re[g.] of 1[877]

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[1] These words were substituted by the Ajmere Amending Regulation, 1914 (II of 1914), *infra*.

[2] The words "with the sanction of the Commissioner" were repealed, *ibid.*

[3] The words "with the previous sanction of the Governor General in Council" were repealed, *ibid.*

[4] *Supra.*

land-revenue or for the recovery of any other revenue due to the Government

39. [*Taxation in cantonments*] *Rep Act XIII of 1889*

40. In addition to the other matters for which the Chief Commissioner is empowered to make rules by this Regulation, he may, from time to time, make rules as to the following, that is to say — Additional power to make rules.

(*a*) the maintenance of watch and ward, and the establishment of a proper system of conservancy and sanitation at fairs[1] and other large public assemblies,

(*b*) the imposition of taxes for the purposes mentioned in clause (*a*) of this section on persons holding or joining any of the assemblies therein referred to,

(*c*) the custody of judicial records civil and criminal * * * *[2],

(*d*) the appointment, duties, punishment suspension and dismissal of all ministerial officers[3],

[4][(*e*) the registration of cattle]

41 The Chief Commissioner may in making any rule under this Regulation attach to the breach of it in addition to any other consequences that would ensue from such breach, a punishment, on conviction before a Magistrate, not exceeding rigorous or simple imprisonment for a month or a fine of two hundred rupees or both Penalty for breach of rules.

42. No rule made by the Chief Commissioner under this Regulation shall take effect until it has been * * * * * *[5] published in the Gazette of India Rules to be sanctioned and published

All such rules when so * * * * * *[5] published shall, in so far as they are consistent with this Regulation, have the force of law Force of rules

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[1] For rules as to the levy of a shop tax at the Pushkar fair, *see* Ajmer Local Rules and Orders

[2] The words " and the destruction from time to time of such of the said records as it may be deemed unnecessary to keep " were repealed by the Destruction of Records Act, 1879 (III of 1879)

[3] For rules under s 40 (*d*) (*1*) for the appointment punishment, etc , of ministerial officers, and (*2*) for the guidance of Nazirs, Naib Nazirs and Ahlmads *see* Ajmere Local Rules and Orders For rules as to non gazetted officers *see* Gazette of India, 1914, Pt II, p 1742

[4] This clause was inserted by the Ajmer Amending Regulation 1914 (II of 1914), *infra*

[5] Words repealed by the Ajmere Amending Regulation, 1914 (II of 1914) are omitted

FIRST SCHEDULE.

Rep. Act XII of 1927.

SECOND SCHEDULE.[1]

REGULATIONS IN FORCE.

(*See section 3.*)

Number and year of Regulation. 1	Subject. 2	Extent of operation. 3	Powers or duties how to be exercised or performed. 4
[2] * *	* *	* * * *	* *
[3] V of 1793 .	Estates of intestates.	Sections 4, 5 and 6 . .	The functions of the Court of the Sadr Diwani Adalat shall be discharged by the Chief Commissioner.
[2] * *	* *	* * * *	* *
[4] XI of 1806 .	Passage of troops .	Sections 2 to 6 and section 8, with the exception of such part as authorises Collectors and their Native officers, or Magistrates and their Police-officers, to give their official aid in procuring coolies for the purpose of facilitating the march of troops or the progress of travellers. * * * * * * *[4]	The powers of the[5] Governor General in Council and of the Board of Revenue shall be exercised by the Chief Commissioner.

[1] This Schedule is repealed, so far as it relates to the following Bengal Regulations, by the enactments noted against each. The references to those Regulations have therefore been omitted :—

Ben. Reg.	I of 1793	. .	Reg. IX of 1893.
	XVII of 1806	. .	
	XX of 1810	. .	Act XIII of 1889.
	V of 1817	. .	
	VI of 1819	. .	Reg. IX of 1893.
	XX of 1825	. .	Act X of 1882 (since rep. Act V of 1898).

[2] Supra Pt. I.

[3] The entry relating to Act X of 1804 was omitted by the Special Laws Repeal Act, 1922 (IV of 1922), since repealed.

[4] The words and figures "and with the exception, in section VIII, of the words and figures "under the rules prescribed by Reg. V of 1804" were repealed by the Ajmere Amending Regulation, 1893 (IX of 1893), *infra*.

[5] The words "Local Government" have been substituted for the words "Governor General in Council" in Ben. Reg. XI of 1806, *see supra*.

SECOND SCHEDULE—*contd.*

REGULATIONS IN FORCE—*contd.*

Number and year of Regulation. 1	Subject 2	Extent of operation. 3	Powers or duties how to be exercised or performed. 4
[1] * *	* *	* * * *	* *
[2] XIX of 1810 .	Endowments, public buildings and nazul property	So much as is not repealed by Act No XX of 1863	The functions of the Board of Revenue shall be discharged by the Chief Commissioner.
[2] XI of 1812 .	Foreign Immigrants	So much as has not been repealed	[3] The powers of the Nizamat Adalat shall be exercised by the Chief Commissioner.
[1] * *	* *	* * * *	* * *
[2] III of 1818 .	State Prisoners	So much as has not been repealed	
[1] * *	* *	* * * *	* * *
[2] VI of 1825 .	Supply of troops on the march.	The whole	The powers of the Board of Revenue shall be exercised by the Chief Commissioner.
[1] * *	* *	* * * *	* *
[2] V of 1827 .	Administration of landed property.	So much as has not been repealed, except the words and figures "and clauses 5 and 6, section 16, Regulation III, 1803."	The powers of the Board of Revenue shall be exercised by the Chief Commissioner.

[1] *See* first foot-note to this Schedule.
[2] *Supra*, Part I.
[3] The clause in Ben. Reg. XI of 1812 conferring powers on the Nizamat Adalat has since been altered *so as to confer them on the Local Government, see s. 5 of that Regulation, supra.*

THE AJMERE RURAL BOARDS REGULATION, 1886.

[REG. VI OF 1886.]

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REGULATION No. VI OF 1886.

[THE AJMERE RURAL BOARDS REGULATION, 1886.]

(*Published in the Gazette of India of the 16th October, 1886.*)

WHEREAS a rate is levied on land in Ajmere and Merwara for certain local purposes, and it is expedient to make better provision for the constitution of local bodies to administer the expenditure of the proceeds of that rate, and of the income accruing from certain other sources of revenue which may, from time to time, be made applicable to local purposes; It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

Short title, extent and commencement.

1. (*1*) This Regulation may be called the Ajmere Rural Boards Regulation, 1886.

(*2*) It extends to all the territories which are now under the administration of the Chief Commissioner of Ajmere and to which the provisions of the thirty-third of Victoria,[1] chapter three, section one, have been declared applicable; and

(*3*) It shall come into force on the first day of November, 1886.

CHAPTER II.

LOCAL RATE.

Local rate.

2. (*1*) Every estate shall be subject to the payment of a rate, to be called the local rate, not exceeding [2][four and a half pies] for every rupee of its annual value.

(*2*) "Annual value" in sub-section (*1*) means—

(*a*) in the case of a khálisa estate, double the land-revenue for the time being assessed on the estate;

(*b*) in the case of an istimrári estate, double the land-revenue which would have been assessable on the estate if the land-revenue thereof had not been in part released; and

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[1] The Government of India Act, 1870, printed in Collection of statutes relating to India Ed. 1913, Vol. I, p. 423. It has been repealed and re-enacted by the Government of India Act, 1915 (5 and 6 Geo. 5 c. 61).

[2] These words were substituted for the words "three pies" by s. 2 of the Ajmere Rural Boards (Amendment) Regulation, 1926 (V of 1926), *infra*.

(c) in the case of a jagir estate double the land revenue which would have been assessable on the estate if the land revenue thereof had not been wholly released

(3) The rate levied on any estate for the maintenance of roads schools and the district post at the time of the enactment of this Regulation shall be deemed to be the local rate to which the estate is subject under this section

(4) The Chief Commissioner may at any time direct the revision of the assessment of the local rate for all or any estates in any local area and from time to time prescribe the instalments and times in and at which that rate shall be payable

(5) The local rate may be recovered as if it were an arrear of land revenue due in respect of the estate subject thereto

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CHAPTER III

CONSTITUTION OF DISTRICT BOARDS AND LOCAL BOARDS

Formation of districts and sub-districts

3 (1) By order [1] in writing for the purposes of this Regulation the Chief Commissioner may declare all the territories under his administration to be one district or may divide those territories into districts, and may divide any district into sub districts

(2) The Chief Commissioner may from time to time by order in writing, vary any order made under this section

(3) There shall be excluded from the district or districts formed under this section such portions of the said territories as are for the time being included in the limits of a military cantonment or of a municipality

[illegible] district board for district and of local boards [illegible]

4 There shall be established for the district or for each district as the case may be, a district board having authority over the district, and when the district is divided into sub-districts for each sub-district a local board, which shall in the sub-district be the agent of the district board and, as such agent have such authority and discharge such duties as the district board may, by written authority in that behalf, from time to time, confer or impose upon it

[illegible]

5 (1) A district board or local board shall consist of such number of members, not less than six as the Chief Commissioner may, from time to time, fix in this behalf

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[1] For order constituting the Ajmer District Board see Ajmer Local [illegible] and Orders

(*2*) The members may be appointed by the Chief Commissioner either by name or by official designation, or may be elected in accordance with rules made by the Chief Commissioner under this Regulation, or some may be appointed and some elected, as the Chief Commissioner from time to time directs:

Provided that—

(*a*) not less than two-thirds of the members of every board shall be persons by whom the local rate is payable; and

(*b*) when the district has been divided into sub-districts, not less than one-half of the members of each local board shall be members of the district board.

Term of office of members.

6. (*1*) A member appointed by virtue of an office shall, unless the Chief Commissioner otherwise directs, continue to be a member while he continues to hold that office.

(*2*) The term of office of all other members shall be fixed by the Chief Commissioner by rules made under this Regulation, and may be so fixed as to provide for the retirement of members by rotation, but shall not exceed three years.

(*3*) An outgoing member shall, if otherwise qualified, be again eligible for election or appointment.

Resignation of members.

7. A member may resign by notifying in writing his intention to do so to the Chief Commissioner, and on the acceptance by the Chief Commissioner of such resignation, the member shall be deemed to have vacated his office.

Power of Chief Commissioner as to removal of members.

8. The Chief Commissioner may remove any member—

(*a*) if he refuses to act, or becomes incapable of acting, or is declared insolvent, or is convicted of any such offence, or subjected by a Criminal Court to any such order, as implies, in the opinion of the Chief Commissioner, a defect of character which unfits him to be a member;

(*b*) if he has been proscribed by the Government from being employed in its service;

(*c*) if he, being a member of a local board, without an excuse sufficient in the opinion of the Chief Commissioner, neglects for more than three consecutive months to be present at the meetings of that board, or, being a member of the district board, without such sufficient excuse neglects for more than six consecutive months to be present at the meetings of that board;

(*d*) if his continuance in office is, in the opinion of the Chief Commissioner, dangerous to the public peace or order; or,

(*e*) when he is a salaried officer of the Government, if his continuance in office is, in the opinion of the Chief Commissioner, unnecessary or undesirable.

9. (*1*) When the place of an elected member becomes vacant by the resignation or removal of the member or by his death, a new member shall be chosen, in accordance with rules made by the Chief Commissioner under this Regulation, to fill the place: Filling of casual vacancies.

Provided that the Chief Commissioner may direct in any such case that the vacancy shall be left unfilled.

(*2*) When the place of a member appointed by name becomes vacant as aforesaid, the Chief Commissioner may, if he thinks fit, appoint a new member to fill the place.

(*3*) A person chosen or appointed under this section to fill a casual vacancy shall hold office until the person whose place he fills would regularly have gone out of office, and shall then go out of office, but shall be again eligible for election or appointment.

10. A district board shall be a body corporate by the name of the district board of its district, shall have perpetual succession and a common seal, with power to acquire and hold property, both moveable and immoveable, to transfer any moveable property, and, subject to rules made by the Chief Commissioner under this Regulation, any immoveable property held by it, and to contract and to do all other things necessary for the purposes of its constitution and may sue and be sued in its corporate name. Incorporation of district board.

11. The board for a district or sub-district shall come into existence at such time as the Chief Commissioner may appoint in this behalf.[1] Time for boards coming into existence.

CHAPTER IV.

Duties of District Boards.

12. The following matters shall, subject to such exceptions and conditions as the Chief Commissioner may, from time to time, make and impose, be under the control and administration of the district board within the area subject to its authority:— Matters to be administered by district board.

(*a*) the construction, repair and maintenance of public roads and other means of communication;

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[1] For notification fixing the date of commencement of District and Local Boards in Ajmer, see Gazette of India, 1888, pt. II, p. 377.

(*b*) the establishment, management, maintenance and visiting of schools, hospitals, dispensaries, markets, rest-houses, sarais and other public institutions, and the construction and repair of all buildings connected with these institutions;

(*c*) the construction and repair of public wells, tanks and water-works, the supply of water from them and from other sources, and the preservation from pollution of water for drinking, cooking and bathing purposes;

(*d*) the planting and preservation of trees on the side of roads and on other public ground;

(*e*) the establishment and maintenance of such relief-works in time of famine or scarcity as may be entrusted to the charge of the board by the Chief Commissioner;

(*f*) the establishment and management of pounds, including, where the [1]Cattle-trespass Act, 1871, is in force, such functions of the Local Government and the Magistrate of the district as may be transferred to the board by the Chief Commissioner; I of 1871.

(*g*) the regulation of encamping-grounds;

(*h*) the holding and management of agricultural shows and industrial exhibitions;

(*i*) the maintenance of any property which is vested in the district board or may be placed by the Chief Commissioner under the management of that board; and

(*j*) any other local works or measures likely to promote the health, comfort or convenience of the public.

District board not to abolish any institution without concurrence of departmental authority, and not to depart from approved principles of administration.

13. (*1*) The district board shall not abolish any school, dispensary or other institution without reference to the head of the department concerned.

(*2*) If any difference of opinion arises between the district board and the head of a department under sub-section (*1*), the decision thereon of the Chief Commissioner shall be final.

(*3*) The district board shall, in controlling and administering the matters specified in section 12, observe those general principles which the Government has approved in the several departments of the administration.

[1] *General Acts, Vol. I.*

CHAPTER V

OFFICERS AND SERVANTS

14 (*1*) The district board may employ such officers and servants as may be necessary and proper for the efficient execution of its duties and of the duties of the local boards (if any) in the district, and may assign to such officers and servants such pay as it thinks fit and as may be approved by the Commissioner — Employment of officers and servants.

(*2*) If, in the opinion of the Commissioner —

(*a*) the number of persons employed by the district board under this section is excessive, or

(*b*) any such person is unfit for his employment the board shall, on the requirement of the Commissioner reduce the number, or dismiss the unfit person, as the case may be

15 In the case of a Government official the district board may— Pensions of Government officials serving the district board.

(*1*) If his services are wholly lent to it, subscribe for his pension or gratuity and leave allowances in accordance with the rules of the [1][Civil Service Regulations] for the time being in force, and

(*2*) If he devotes only a part of his time to the performance of duties in behalf of the board, contribute to his pension or gratuity and leave allowances in such proportion as may be determined by the Chief Commissioner

16 In the case of an officer or servant not being a Government official referred to in section 15, the district board may— Pensions of other officers and servants

(*1*) grant him leave allowances and, if his monthly pay is less than ten rupees, a gratuity, and

(*2*) if empowered in this behalf by the Chief Commissioner—

(*a*) subscribe in his behalf for pension or gratuity under the rules of the [1][Civil Service Regulations] for the time being in force, or

(*b*) purchase for him from the Government or otherwise an annuity on his retirement

Provided that no pension, gratuity, leave-allowance or annuity shall exceed the sum to which, under the [1][Civil Service Regulations] for the time being in force, the officer or servant would be entitled if the service had been service under the Government

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[1] These words were substituted for the words "Government Civil Pension and Leave Codes" by the Ajmere Amending Regulation, 1893 (IX of 1893), *infra*

CHAPTER VI.

District Fund.

Constitution, custody and application of the district fund.

17. (*1*) There shall be formed for the district or for each district, as the case may be, a fund to be called the district fund, and there shall be placed to the credit thereof—

(*a*) the whole, or such portion as the Chief Commissioner may determine, of the balance of local funds available in whole or in part for expenditure in the district on the day on which the district board comes into existence;

(*b*) the proceeds of the local rate levied in the district, after deduction therefrom of such sum as the Chief Commissioner may assign for the maintenance of the district post;

and subject to such exceptions and conditions as the Chief Commissioner may from time to time make and impose, the following, namely:—

(*c*) the sale-proceeds of grass and of the produce of trees on the sides of roads and on other public ground under the control and administration of the district board, and of timber fallen and felled thereon;

(*d*) the surplus accruing in the district under section 18 of the [1] Cattle-trespass Act, 1871. I of 1871.

(*e*) receipts from encamping-grounds under the Regulation of the district board;

(*f*) receipts from property vested in the district board;

(*g*) rents and profits accruing from nazul and other property placed by Chief Commissioner under the management of the district board;

(*h*) other sums assigned to the district fund by the Chief Commissioner; and sums contributed thereto by local bodies or private persons; and

(*i*) all other sums received by or on behalf of the district board in the carrying out of this Regulation.

(*2*) The district fund shall be vested in the district board, and the balance standing at the credit of the fund shall be kept in the Government Treasury.

(*3*) The district fund shall be charged with the payment of the expenses incurred in auditing the accounts of the district board, and such portion of the cost of the Provincial Departments for education, sanitation, vaccination, medical relief and public works as may be held by

[1] General Acts, Vol. I.

Chief Commissioner to be equitably debitable to the district board in urn for services rendered to the board by those Departments.

(*4*) Subject to the charges specified in sub-section (*3*), the district d shall be applicable to the payment, in whole or in part, of the rges and expenses incidental to the several matters specified in sections 14, 15, and 16.

CHAPTER VII.

CONTROL.

18. (*1*) When the Commissioner, after due enquiry, is satisfied that a trict board has made default in performing any duty imposed upon it or under this Regulation or any other law for the time being in force, may, by an order in writing, fix a period for the performance of that ty, and, if it is not performed within the period so fixed, he may point some person to perform it, and may direct that the expense of rforming it shall be paid, within such time as he may fix, by the ard to that person. **Power of Commissioner in cases of default of district board.**

(*2*) The Chief Commissioner may confirm, modify or rescind any order ade under this section by the Commissioner.

19. The Commissioner may suspend, and the Chief Commissioner may ncel, any proceeding of a board, if in his opinion the proceeding is excess of the power conferred by law, or is likely to lead to a breach the peace, or to cause injury or annoyance to the public or to any class body of persons. **Power of Commissioner to suspend, and of Chief Commissioner to cancel, proceedings of boards.**

20. (*1*) If a district board is not competent to perform, or persistently akes default in the performance of the duties imposed on it by or under is Regulation or any other law for the time being in force, or exceeds abuses its powers, the Chief Commissioner may, with the previous proval of the Governor General in Council, by an order published, ith the reason for making it, in the Gazette of India, declare the board be incompetent or in persistent default, or to have exceeded or abused powers, as the case may be, and supersede it for a period to be speci-d in the order. **Power to supersede district board in case of incompetency, persistent default or abuse of powers.**

(*2*) When a district board is so superseded, the following consequences all ensue:—

(*a*) all members of the board, and all members of the local boards (if any) of the district, shall from the date of the order, vacate their offices as such members,

(*b*) all powers and duties of the district board may, during the period of supersession, be exercised and performed by such person or persons as the Chief Commissioner, from time to time, appoints in that behalf; and

(*c*) all property vested in the district board shall, during the period of supersession, vest in Her Majesty.

(*3*) On the expiration of the period of supersession specified in the order, the district board and the local boards (if any) shall be re-established, and the persons who vacated their offices under clause (*a*) shall not be deemed disqualified for appointment or election.

CHAPTER VIII.

LIABILITY OF MEMBERS OF BOARDS.

Liability of members for loss, waste or misapplication.

21. A person shall be liable for the loss, waste or misapplication of any money or other property belonging to the district board if such loss, waste or misapplication is a direct consequence of his neglect or misconduct while a member of that board or of a local board, and a suit for compensation may be instituted against him in any Court of competent jurisdiction by the district board with the sanction of the Commissioner, or by the Secretary of State for India in Council.

CHAPTER IX.

FORMS AND RULES.

Power of Chief Commissioner to frame forms and make rules.

22. (*1*) The Chief Commissioner may, from time to time, frame forms for any proceeding for which he considers that a form should be provided, and make [1] rules consistent with this Regulation—

(*a*) as to the mode and time of appointment or election of members of boards, and the qualifications and disqualifications of such members, and the qualifications and disqualifications of electors, and generally for regulating all elections under this Regulation;

(*b*) as to the term of office of members, and the filling of casual vacancies;

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[1] For rules of Procedure under s. 22 in conjunction with s. 23, *see* Ajmer Local Rules and Orders.

(c) as to the conduct of proceedings of boards including the minimum number of meetings to be held and the maximum interval between successive meetings, the mode of convening, and notice to be given of meetings, the quorum necessary for the transaction of business at any meeting, the representation of any member at meetings by proxies appointed either from among the other members or otherwise, the appointment or election and the term of office of chairmen, vice-chairmen and secretaries, the giving of a casting vote in case of an equality of votes at a meeting, the formation of committees and the delegation of powers to them, and the recording of minutes of proceedings and the transmission of copies of those minutes to the Commissioner,

(d) as to the powers of boards to enter into contracts and transfer property, and as to the mode in which boards shall execute contracts,

(e) as to the authority on which money may be paid from the district fund,

(f) as to the preparation of plans and estimates for works which are to be partly or wholly constructed at the expense of a board, and as to the authority by which and the conditions subject to which, such plans and estimates may be sanctioned,

(g) as to the accounts to be kept and as to the manner in which those accounts shall be audited and published,

(h) as to the preparation of estimates of income and expenditure, and the authority by whom, and the conditions subject to which such estimates may be sanctioned,

(i) as to the returns, statements and reports to be submitted by boards,

(j) as to the apportionment of the district fund between the general purposes of the district and the purposes of particular parts of the district, and the appropriation of funds raised in a particular area to the purposes of that area, and,

(k) generally, for the guidance of boards and officers of Government in all matters connected with the carrying out of this Regulation and for settling their relations to one another.

(2) The Chief Commissioner shall, before making any rules under this section, publish, in such manner as may in his opinion be sufficient for giving information to persons interested, a draft of the proposed rules,

together with a notice specifying a date at or after which the draft will be taken into consideration, and shall, before making the rules, receive and consider any objection or suggestion which may be made by any person with respect to the draft before the date so specified.

(*3*) Every rule made under this section shall be published in such manner as the Chief Commissioner may, from time to time, prescribe in this behalf and such publication shall be conclusive evidence that the rule has been made as required by sub-section (*2*).

Power of boards to make rules.

23. The district board and, with the previous sanction of the district board, a local board, may, from time to time make[1] rules consistent with this Regulation, and with any rules made under this Regulation by the Chief Commissioner, as to—

(*a*) the time and place of its meetings;

(*b*) the conduct of proceedings at meetings and the adjournment of meetings;

(*c*) the division of duties among the members of the board, and the powers to be exercised by members to whom particular duties have been assigned;

(*d*) the persons by whom receipts may be granted on behalf of the board for money paid under this Regulation; and

(*e*) other similar matters.

REGULATION No. VIII OF 1887.

[THE AJMERE IRRIGATION REGULATION, 1887.]

A Regulation to declare the law relating to Irrigation from Tanks belonging to the Government in Ajmere.

(*Received the assent of the Governor General on the 8th August, 1887, and published in the Gazette of India, 1887, Part I, p. 403.*)

Preamble.

WHEREAS it is expedient to declare the law relating to irrigation from tanks to the exclusive use and control of the water whereof the Government is entitled under section 5 of the Ajmere Land and Revenue Regulation, 1877[2]: It is hereby enacted as follows:— Reg. II of 1877.

Title, extent and commencement.

1. (*1*) This Regulation may be called the Ajmere Irrigation Regulation, 1887.

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[1] For rules of Procedure under s. 23 in conjunction with s. 22, *see* Ajmer Local Rules and Orders.

[2] *Supra.*

(2) It extends to the territories now administered by the Chief Commissioner of Ajmere and subject to the provisions of the [1] Statute 33 Victoria, Chapter 3, section 1, and

(3) It shall come into force on such date [2]as the Chief Commissioner may, by notification in the official Gazette, appoint in this behalf

2. In this Regulation, unless there is something repugnant in the subject or context— Definitions

(1) " field " means an area bearing a separate number in the village map or khasra

(2) " stream embankment " means a dam across a river, stream or natural drainage channel, and includes a dam known locally as " rappat "

(3) " field-embankment " means an embankment, whether made by raising the boundary of a field or otherwise, which retains, or is intended to retain surface drainage, and includes an embankment known locally as " nadi "

(4) " tank " means a tank constructed by the Government, and includes such stream-embankments and field-embankments as are maintained at the expense of the Government

(5) " duct " includes any channel which is supplied with water from a tank and is maintained by the Government

(6) " water-course " means a channel which is supplied with water from a tank or duct, but which is not maintained by the Government

(7) " lift " includes any appliance used for the purpose of raising water from a tank, duct or water course and

(8) " water-revenue " means any sum payable to the Government for the supply or use of the water of a tank

3. (1) The Chief Commissioner may, by order in writing, define, with respect to any tank specified in the order, the limits of the area in the vicinity thereof within which lands are to be liable to be assessed to water revenue as being benefited by percolation from the tank Assessment to water-revenue of irrigation due to percolation.

(2) The order of the Chief Commissioner under sub-section (1) shall be conclusive proof of the existence of percolation

(3) If a person makes a well, lift or other irrigation-work within the limits defined by the Chief Commissioner under sub section (1), any land irrigated from the well, lift or work may be assessed to water-revenue as if it were irrigated from the tank

[1] The Government of India Act, 1870, printed in Collection of Statutes relating to India, Ed 1913 Vol I, p 423 It has been repealed and re-enacted by the Government of India Act, 1915 (5 and 6 Geo 5 c 61)

[2] The 1st October, 1887, see Gazette of India, 1887, Pt II, p 601

Power to make rules.

4. (*1*) [1][Subject to the control] of the Governor General in Council, the Chief Commissioner may [2] make rules to regulate the following matters, namely:—

(*a*) the rates at which water-revenue is to be assessed, and the mode of assessment;

(*b*) the collection, suspension, remission and refund of water-revenue;

(*c*) the distribution of water of tanks, and the decision of disputes with respect thereto;

(*d*) the repairs of tanks, ducts and water-courses and of works connected therewith, and the incidence and payment of the cost of repairing water-courses, and of repairing such tanks and works connected therewith as in accordance with any engagement between the Government and any persons are required to be kept in repair by, or at the expense of, those persons;

(*e*) the requisition of, and the rates to be paid for, labour in cases of serious emergency threatening sudden and extensive public injury;

(*f*) the person by whom, and the time, place or manner at or in which anything for the doing of which provision is made in any rule under this Regulation is to be done;

(*g*) the powers, duties and proceedings of any officer or other person who by any such rule is empowered or required to take action in any matter;

(*h*) the cases in which, the officers to whom, and the conditions subject to which orders passed under any such rules are to be appealable; and

(*i*) the exercise of the right of the Government to the exclusive use and control of the water of rivers and streams flowing in natural channels and of natural collections of water, in so far as the Chief Commissioner may deem the exercise of that right to be necessary for the purposes of this Regulation.

(*2*) In making a rule under this section the Chief Commissioner may direct that a breach of it shall be punishable with fine which may extend to fifty rupees, and that a person convicted of a breach of the rule a second time shall, in addition to being liable to fine, be liable to be

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[1] These words were substituted for the words "With the previous sanction" both by the Decentralisation Act, 1914 (IV of 1914), Genl. Acts, Vol. VI and by the Ajmere Amending Regulation, 1914 (II of 1914), *infra*.

[2] For irrigation rules under s. 4, *see* Ajmere Local Rules and Orders.

deprived of the supply of water for irrigation for the current harvest or for the current and next succeeding harvests

Recovery of water revenue

5 If any water revenue, or any other sum payable under any rule under this Regulation, and not being a fine, remains unpaid after the day on which it becomes due, it may be recovered from the persons primarily liable to pay it, or from his surety, if any, as if it were an arrear of land-revenue

Jurisdiction of Civil Courts

6 (*1*) A Civil Court may take cognizance of a suit to contest the title of the Government to the exclusive use and control of water to which section 5 of Ajmere Land and Revenue Regulation, 1877,[1] relates, and to which any provision of this Regulation or of any rule thereunder has been applied, but shall not in any such suit make a decree or order affecting the supply of water to any crop sown or growing at the time of the decree or order

(*2*) Save as provided by sub section (*1*), a Civil Court shall not take cognizance of any claim in respect of anything done in pursuance of this Regulation or of any rule thereunder

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THE AJMERE GOVERNMENT WARDS REGULATION, 1888

[REG I OF 1888]

CONTENTS

PREAMBLE

SECTIONS

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[1] *Supra*

REGULATION No. I OF 1888.

[THE AJMERE GOVERNMENT WARDS REGULATION, 1888.]

(Received the assent of the Governor General on the 15th May, 1888, and published in the Gazette of India, 1888, Part I, p. 223.)

Preamble. WHEREAS it is expedient to make better provision for the superintendence of Government wards in Ajmere and Merwara; It is hereby enacted as follows:—

Title, extent and commencement. **1.** *(1)* This Regulation may be called the Ajmere Government Wards Regulation, 1888.

(2) It extends to the territories administered by the Chief Commissioner of Ajmere to which the provisions of the Statute 33 Victoria,[1] Chapter 3, section 1, have been declared applicable; and

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[1] The Government of India Act, 1870, printed in Collection of Statutes relating to India, Ed. 1913, Vol. I, p. 423. It has been repealed and re-enacted by the Government of India Act, 1915 (5 and 6 Geo. 5, c. 61).

(3) It shall come into force on the first day of July, 1888

I of 2. (1) Part V of the Ajmere Land and Revenue Regulation, 1877,[1] the portion of clause (b) of section 2 of that Regulation beginning with the words "and includes" and ending with the words "under this Regulation", and section 14 of Act XL of 1858[2] (*for making better provision for the care of the persons and property of Minors in the Presidency of Fort William in Bengal*) are hereby repealed — Repeal.

But all orders made and proceedings taken under any of those enactments shall, so far as may be, be deemed to have been made and taken under this Regulation

3 In this Regulation, unless there is something repugnant in the subject or context — Definitions

(1) expressions used in the Ajmere Land and Revenue Regulation, I of 1877,[1] have the same meanings as they have in that Regulation

(2) "Government ward" means any person of whose property, or of whose person and property, the Court of Wards may for the time being have the superintendence under this Regulation and

(3) "landholder" means an istimrardar bhumia, jagirdar, muafidar, malguzar or assignee of revenue, and includes any person having an interest in an estate subject to the payment of the local rate under the VI of Ajmere Rural Boards Regulation, 1886[1]

4 The Commissioner shall be the Court of Wards — Commissioner to be Court of Wards

5 Every landholder shall be under the jurisdiction of the Court of Wards — Landholder to be under jurisdiction of Court of Wards

6 The Court of Wards may, with the previous sanction of the Chief Commissioner, assume the superintendence of the property of any landholder who is disqualified to manage his own property — Superintendence by Court of Wards of property of disqualified landholder

7 (1) The following persons shall, for the purposes of the last foregoing section, be deemed to be disqualified to manage their own property, namely — Cases in which landholder to be deemed disqualified.

(a) minors who have not guardians appointed for their property by will,

(b) persons adjudged by a competent Civil Court to be of unsound mind and incapable of managing their affairs, and

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[1] Supra
[2] Act XL of 1858 has been repealed by the Guardian and Wards Act, 1890 (VIII of 1890), General Acts, Vol III

(*c*) persons declared by the Chief Commissioner to be incapable of managing their own property—

(*i*) owing to any physical defect or infirmity;

(*ii*) owing to their having been convicted of a non-bailable offence and being unfitted by vice or bad character;

(*iii*) owing to their being females; or

(*iv*) on their own application.

(*2*) Every declaration made by the Chief Commissioner under clause (*c*) of sub-section (*1*) shall be final and shall not be questioned in any Civil Court.

Superintendence by Court of Wards of person of disqualified landholder.

8. When the Court of Wards assumes the superintendence of the property of a minor who has not a guardian appointed for his person by will, or of a person who has been adjudged by a competent Civil Court to be of unsound mind and incapable of managing his affairs, it may, with the previous sanction of the Chief Commissioner, assume the superintendence of his person also:

Provided that nothing in this section shall authorise the Court of Wards to assume the superintendence of the person of a female who is married to a man of full age and is living under his protection.

Superintendence of Court of Wards not challengeable on ground that ward is not a landholder or minor.

9. When the Court of Wards has, with the previous sanction of the Chief Commissioner, assumed the superintendence of the property of any person, or of his person and property, its authority shall not be contested in any Civil Court on the ground that he was not or is not a landholder, or was not or is not a minor.

Appointment, etc., of managers by Court of Wards.

10. Subject to the rules made under this Regulation, the Court of Wards may appoint, suspend and remove a manager of the property of any Government ward under its superintendence, and may delegate to the manager all or any of its functions in relation to any property under this Regulation.

Liabilities, etc., of managers and other servants of Court of Wards.

11. (*1*) Every manager appointed by the Court of Wards shall,—

(*a*) unless he is the Collector or other revenue-officer, give such security as the Court thinks fit duly to account for what he receives in respect of the rents and profits of the property under his management;

(*b*) unless he is the Collector, be entitled to such allowance, if any, as the Court thinks fit for his care and pains in the execution of his duties; and

(*c*) be responsible for any loss occasioned to the property under his management by his wilful default or gross negligence.

(2) Every manager or other servant of the Court of Wards shall be deemed a public servant within the meaning of sections 161, 162, 163,
1860 164 and 165 of the Indian Penal Code, and, in the definition of "legal remuneration" contained in the said section 161, the word "Government" shall, for the purposes of this sub-section, be deemed to include the Court of Wards

Power for Court of Wards to appoint guardians of certain Government wards.

12 The Court of Wards may appoint guardians for the care of the persons of Government wards whose persons are for the time being under its superintendence, and may control and remove guardians whom it has appointed

General powers of Court of Wards

13 Subject to the provisions of this Regulation and of the rules made under this Regulation, the Court of Wards—

(a) may, of itself or through the manager (if any) appointed by it under this Regulation do all such things requisite for the proper care and management of any property of which it assumes the superintendence under this Regulation as the owner of the property if not disqualified, might do for its care and management, and

(b) may, of itself or through the guardian (if any) appointed by it under this Regulation, do in respect of the person of any Government ward whose person is for the time being under its superintendence all such things as may lawfully be done by a guardian

Custody education and residence of certain Government wards

14 The Court of Wards may pass such orders as to it seem fit in respect of custody and residence of any Government ward whose person is for the time being under its superintendence and, when he is a minor, in respect of his education

Allowance for Government ward and his family

15 The Court of Wards may from time to time, determine what sums shall be allowed in respect of the expenses of any Government ward and of his family and dependants

Duties of Court of Wards or manager

16 The Court of Wards or the manager (if any) appointed by it under this Regulation shall manage the property of every Government ward under its superintendence or under his management diligently and faithfully for the benefit of the Government ward, and shall in every respect act to the best of its or his judgment for the Government ward's interest as if the property were its or his own

Power of Court of Wards as to property of Government wards.

17 (1) Subject to the control of the Chief Commissioner under this Regulation and to the restrictions specified in this section, the Court of Ward may do all such acts as it may judge to be best for the benefit of the property of any Government ward under its superintendence and for the advantage of the ward

(2) The restrictions referred to in sub-section (1) are the following, namely:—

(a) without the previous sanction of the Chief Commissioner, the Court of Wards shall not let the property of the ward or any part thereof for a longer term than five years, or sell, mortgage, charge or exchange the property or any part thereof; and

(b) without the previous sanction of the Chief Commissioner [1] * * * the Court of Wards shall not borrow any money whatever where the debts due from the ward, or the sums secured by incumbrances on his property, or such debts and sums combined exceed ten thousand rupees, or borrow any sum exceeding five thousand rupees in any other case.

Manager of Court of Wards to be next friend or guardian in suits by or against Government Wards.

18. In every suit brought by or against a Government ward the manager of the ward's property or, if there is no manager, the Court of Wards shall be named as next friend or guardian for the suit, as the case may be.

Payment of costs.

19. If, in any suit brought by or against a Government ward, any Civil Court decrees any costs against the ward's next friend or guardian for the suit, the Court of Wards shall pay the costs so far as the ward's property for the time being in its hands may be sufficient for the payment thereof.

Processes against Government wards to be served on next friend or guardian.

20. Every process which may be issued out of any Civil Court against any Government ward shall be served on the ward's next friend or guardian for the suit.

Authority of Court of Wards required in case of suits brought on behalf of Government wards.

21. No suit shall be brought on behalf of any Government ward unless it is authorized by some order of the Court of Wards:

Provided as follows:—

(a) a manager may authorize a plaint to be filed in order to prevent a suit from being barred by the law of limitation, but the suit shall not afterwards be proceeded with except under the sanction of the Court of Wards;

(b) a suit for arrears of rent may be brought on behalf of a Government ward if authorized by an order of the manager of the property on which the rent is due.

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[1] The words "and of the Governor General in Council" were repealed by the Ajmere Amending Regulation, 1914 (II of 1914), *infra*.

22. (*1*) A Government ward shall be incompetent to transfer or create any charge on, or interest in, his property or any part thereof, or to enter into any contract which may involve him in pecuniary liability **Disabilities of a Government ward.**

(*2*) Nothing in this section shall be deemed to affect the capacity of a Government ward to enter into a contract of marriage

Provided that he shall not incur, in connection therewith, any pecuniary liability except such as, having regard to the personal law to which he is subject and to his rank and circumstances, the Court of Wards may, in writing, declare to be reasonable

23 Whenever, on the death of any Government ward, the succession to his property or any part thereof is disputed the Court of Wards may either make over the property or part thereof to any person claiming the same, or retain the superintendence thereof until one of the claimants has established his claim in a competent Civil Court **Procedure when succession to Government ward's property is disputed.**

24 (*1*) The Court of Wards may with the previous sanction of the Chief Commissioner, at any time withdraw its superintendence from the person or property, or both, of a Government ward, and shall withdraw its superintendence as soon as— **Withdrawal of superintendence of Court of Wards**

(*a*) in the case of a person disqualified under clause (*a*) of sub section (*1*) of section 7 he attains his majority,

(*b*) in the case of a person disqualified under clause (*b*) of that sub section he ceases to be of unsound mind and incapable of managing his affairs and

(*c*) in the case of a person disqualified under sub clause (*i*) of clause (*c*) of that sub section his physical defect or infirmity is removed or ceases

(*2*) When any question arises whether the superintendence of the Court of Wards should be withdrawn from any person or property, or both, under clause (*a*) or from any property under clause (*c*) of this section, the decision of the Chief Commissioner thereon shall be final and shall not be questioned in any Civil Court

25 An appeal shall lie from every order of the Court of Wards under this Regulation to the Chief Commissioner **Appeals.**

26 All orders or proceedings of the Court of Wards under this Regulation shall be subject to the supervision and control of the Chief Commissioner, and the Chief Commissioner may, if he thinks fit, revise, modify or reverse any such order or proceeding whether an appeal is presented against the order or proceeding or not. **Control of Chief Commissioner.**

estate-common so owned, assigned or included or allotted is said to "belong" to such estate or village; and every person entitled to the beneficial use or enjoyment of such land in any village or estate is called a "commoner":

a "majority of commoners" means in the case of proprietors who pay land-revenue, or who would pay land-revenue but for an assignment of the same, such number as together pay (or would pay) three-fifths of the total assessment on the estate or village; and, in the case of tenants under an immediate proprietor other than the Government, it means such number as together hold more than half the total area of cultivated land.

CHAPTER II.

PROTECTION OF ESTATE-COMMONS.

Power to apply Regulation VI of 1874 to estate-commons.

3. The Local Government, on the application, through the Collector, of the sole proprietor or a majority of the commoners of any estate-common, may, by notification in the local official Gazette,[1] apply thereto or to any portion thereof all or any of the provisions of the Ajmere Forest Regulation, 1874,[2] for the protection of State forests; and may at any time cancel any such notification. Reg. VI of 1874.

.. ..on election Forest-

4. The sole proprietor or a majority of the commoners of an estate-common or portion of an estate-common under such protection as aforesaid may nominate or elect, subject to the approval of the Collector, any person to be the Forest-officer in charge thereof, and such officer may be invested by the Local Government with all or any of the powers of a Forest-officer under the Ajmere Forest Regulation, 1874,[2] subject to such control as it may think fit.

Power to make rules.

5. The Local Government may, on the application, through the Collector, of the sole proprietor or a majority of the commoners of any estate-common not under such protection as aforesaid, by notification in the local official Gazette, make rules for the preservation of all or any of the trees growing on such estate-common or any part thereof, and may in like manner direct that the breach of any such rules shall be punishable with fine, which may extend to fifty rupees.

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[1] For notification applying the Ajmere Forest Regulation, 1874 (Regulation VI of 1874), to certain private forests for a period of 10 years, *see Gazette of India*, 1894, Pt. II, p. 668.

[2] *Supra.*

REGULATION No IX of 1893

[THE AJMERE AMENDING REGULATION, 1893]

A Regulation * * * * * *[1]
to amend certain *[1] Enactments applying to Ajmere and Merwara

(Received the assent of the Governor General on the 16th August, 1893, and published in the Gazette of India, 1893, Part I, p 481)

* * * * * * * * *[1]

*[1] Whereas it is *[1] expedient that certain formal amendments should be made in the enactments specified in the second schedule to this Regulation,

It is hereby enacted as follows —

1. (*1*) This Regulation may be called the Ajmere * *[2] Amending Regulation, 1893 **Title, extent and commencement.**

(*2*) It extends to the territories administered by the Chief Commissioner of Ajmere and subject to the provisions of the Statute 33 Victoria,[3] Chapter 3, section 1, *[4]

* * *[4]

2. (*1*) * * * * * * *[5]

(*2*) The enactments specified in the second schedule shall be modified to the extent and in the manner mentioned in the fourth column thereof **Enactments in schedules amended.**

3. [*Savings*] *Rep Act I of 1903*

THE FIRST SCHEDULE

(*Repeals*)

* [*Rep Act I of 1903*]

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[1] The words "to repeal certain Obsolete Enactments and" and the word "other" in the title, the first paragraph of the Preamble relating to repeals, the word "and" at the beginning of the 2nd paragraph and the word "also" in that paragraph were repealed by the Amending Act, 1903 (I of 1903), s 4, Genl Acts, Vol IV

[2] The words "Repealing and" were repealed *ibid*

[3] The Government of India Act, 1870, *see* Collection of Statutes relating to India, Ed 1913, Vol I, p 423 It has been repealed and re-enacted by the Government of India Act 1915 (5 and 6 Geo 5, c 61)

[4] The word "and" and sub-section (3) were omitted by s 2 and schedule of the Repealing Act 1927 (XII of 1927) since repealed

[5] Sub-section (*1*) of s 2 relating to the repeal of enactments was repealed by the Amending Act, 1903 (I of 1903), Genl Acts, Vol IV.

THE SECOND SCHEDULE.

Regulations made under the Statute 33 Victoria, Chapter 3.

1	2	3	4
Year.	No.	Title.	Amendment.
[1] *	*	* * * *	* * * * * * *
1877	II	[2] Ajmer Land and Revenue Regulation, 1877.	In sections 112 and 113, *for* Rajputana *read* Official.
[3] *	*	* * * *	* * * * * * *
1886	VI	[2] Ajmer Rural Boards Regulation, 1886.	In sections 15 and 16, *for* Government Civil Pension and Leave Codes *read* Civil Service Regulations.

REGULATION No. IV OF 1895.

[THE AJMERE VILLAGE SANITATION REGULATION, 1895.]

A Regulation to make better provision for sanitation in villages in Ajmere and Merwara.

(Received the assent of the Governor General on the 28th August, 1895, and published in the Gazette of India on the 31st idem.)

WHEREAS it is expedient to make better provision for sanitation in villages in Ajmere and Merwara; It is hereby enacted as follows:—

[Title], extent and commencement.

1. *(1)* This Regulation may be called the Ajmere Village Sanitation Regulation, 1895.

(2) It extends to the territories administered by the Chief Commissioner of Ajmere to which the provisions of the Statute 33 Victoria,[4] Chapter 3, section 1, have been declared applicable; *[5]

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[1] The entry relating to Regulation I of 1877, was omitted by s. 30 and Sch. of the Ajmer Courts Regulation, 1926 (IX of 1926), *infra.*

[2] *Supra.*

[3] The entry relating to Regulation V of 1886 was omitted by s. 2 and Sch. of the Ajmer-Merwara Municipalities Regulation, 1925 (VI of 1925), *infra.*

[4] *The* Government of India Act, 1870, printed in Collection of Statutes relating to India, Ed. 1913, Vol. I, p. 423. It has been repealed and re-enacted by the Government of India Act, 1915 (5 and 6 Geo. 5, c. 61).

[5] The word "and" was omitted by s. 2 and Sch. of the Repealing Act, 1927 (XII of 1927), since repealed.

* * * * * * [1]

gulation, unless there is something repugnant in the Definitions
—

re" means an inhabited site, but does not include a cipality or cantonment, and

' means a well the water of which is habitually used rinking purposes by all or some of the inhabitants of a ge

ief Commissioner may, * * * * [2] Power to make rules regarding conservancy, etc

(a) regulate the conservancy of villages,

(b) provide for the protection and periodical examination of wells and the water supply in villages,

(c) define and prohibit public nuisances in villages, and

(d) improve the sanitation of villages in other similar respects

(2) The power to make rules under this Regulation is subject to the condition of the rules being made after previous publication and of their not taking effect until they have been published in the official Gazette and in such other manner as the Chief Commissioner may direct

4 (1) In making any rule under this Regulation the Chief Commissioner may direct that a breach thereof shall be punishable with fine which may extend to ten rupees and when the breach is a continuing breach, with a further fine which may extend to five rupees for every day after the first during which the breach continues Penalty for breach of rules

(2) All fines recovered under this Regulation shall be applied as the Chief Commissioner shall, from time to time, direct

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REGULATION No V of 1907

[THE AJMERE LAND AND REVENUE (AMENDMENT) REGULATION 1907]

A Regulation further to amend the Ajmere Land and Revenue Regulation, 1877

(Received the assent of the Governor General on the 21st August, 190 , and published in the Gazette of India on the 24th August, 1907)

WHEREAS it is expedient further to amend the Ajmere Land and Revenue Regulation, 1877 [4], It is hereby enacted as follows —

I of

1. This Regulation may be called the Ajmere Land and Revenue (Amendment) Regulation, 1907 Short title.

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[1] Sub section (3) of section 1 was omitted by s 2 and sch of the Repealing Act, 1927 (XII of 1927) since repealed

[2] The words "with the previous sanction of the Governor General in Council" were repealed by the Ajmere Amending Regulation, 1914 (II of 1914), *infra*

[3] For rules under s 3, *see* Ajmere Local Rules and Orders

[4] *Supra*

Substitution of new section 3, Regulation II of 1877.

2. For section 3 of the Ajmere Land and Revenue Regulation, 1877,[1] the following shall be substituted, namely:— Reg. 1877

[*Vide* p. 128, *supra.*]

REGULATION No. II of 1911.

[The Ajmere Talukdars Loan Regulation, 1911.]

A Regulation to provide for the grant of loans to indebted Talukdars in Ajmere.

(*Received the assent of the Governor General on the 25th May, 1911; and published in the Gazette of India on the 27th idem.*)

Whereas it is expedient to provide for the grant of loans to indebted Talukdars in Ajmere; It is hereby enacted as follows:—

Title, extent and commencement.

1. (*1*) This Regulation may be called the Ajmere Talukdars Loan Regulation, 1911.

(*2*) It extends to the territories for the time being administered by the Chief Commissioner of Ajmer.

Definition.

2. In this Regulation, unless there is anything repugnant in the subject or context, "talukdar" includes istimrardar, jagirdar, and bhumia.

Application for loan.

3. Any talukdar may apply in writing to the Commissioner stating that he is subject to or that his immoveable property is charged with, debts or liabilities other than debts due or liabilities incurred to Government, and requesting that he may be granted a loan in accordance with the provisions of this Regulation.

Contents of application.

4. The application shall contain a declaration that the applicant has made himself acquainted with the provisions of this Regulation and agrees to abide by them and by the rules made thereunder, and such other particulars as the Chief Commissioner may by rules prescribe, and shall be verified by the applicant in manner required by law for the verification of plaints.

Procedure on application.

5. The Commissioner, on receipt of an application under section 3, shall forward the same to the Chief Commissioner. The Chief Commissioner may—

(*a*) summarily reject such an application, or

(*b*) direct that the Commissioner proceed to take further action under this Regulation.

Notice to submit claims.

6. (*1*) The Commissioner, on receipt of an order from the Chief Commissioner under section 5, clause (*b*), shall cause to be published in the

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[1] *Supra.*

Gazette of India, and in such other manner as the Chief Commissioner may by general or special order direct a notice in English and [1][shall also cause to be published in such manner as the Chief Commissioner may direct the same notice] in the vernacular declaring that the applicant has applied for a loan under this Regulation reciting the provisions of this section and sections 7 8 16 17 and 18 and calling upon all persons having claims against the applicant or his immoveable property to submit a statement of the same in writing within six months from the date of the publication of the notice aforesaid

(2) Every claim against the applicant or his immoveable property (other than a claim on the part of the Government) not submitted to the Commissioner in compliance with the provisions of sub section (1) shall save in the cases provided for by sections 6 and 13 of the Indian Limitation Act 1908 [2] be deemed for all purposes and on all occasions to have been duly discharged unless in any suit or proceeding instituted by the claimant or by any person claiming under him in respect of any such claim it is proved to the satisfaction of the Court that he was unable to comply with the notice published under sub section (1)

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(3) Every claim admitted by the Court under the provisions of sub section (2) shall notwithstanding any law contract decree or award to the contrary cease to carry interest after the expiry of six months from the date of the publication of the notice under sub section (1)

Effect of publication of notice to submit claims

7 With effect from the date of the publication of a notice under section 6 sub section (1) the following consequences shall ensue namely —

(a) the applicant shall be incompetent to transfer or create any charge on or interest in his property or any part thereof, or to enter into a contract which may involve him in any pecuniary liability and

(b) all suits and proceedings in any Civil Court in respect of any claim against the applicant shall be stayed and no fresh suit or proceeding shall be instituted in respect of any such claim in any Civil Court

Saving of certain debts.

8 Nothing in section 7 clause (a) shall—

(a) apply to debts due or liabilities incurred to the Government

(b) apply to debts or liabilities which are incurred for necessaries for the maintenance of the applicant or his family or for the due observance of funeral and other ceremonies to the extent approved by the Commissioner or

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[1] These words were substituted for the word "also" by the Ajmere Amending Regulation (II of 1914) *infra*

[2] General Acts Vol IV

(c) affect the capacity of the applicant to enter into a contract of marriage:

Provided that he shall not incur in connection with such contract of marriage any pecuniary liability except such as the Commissioner, having regard to the personal law to which he is subject, and his rank and circumstances, may in writing declare to be reasonable.

Particulars of claim to be furnished.

9. Every claimant submitting his claim in compliance with the provisions of section 6, shall furnish, together with his written statement of claim, full particulars thereof, and shall produce all documents on which he relies to support his claim.

Statement of claims and assets.

10. When the period for the submission of statements of claims under section 6 has expired, the Commissioner shall prepare—

(a) a schedule of such claims, and

(b) a statement showing the assets of the applicant, exclusive of the property mentioned in the proviso to section 60 of the Code of Civil Procedure, 1908. V of 1908

Composition of claims.

11. The Commissioner may make to any claimant a proposal in writing for the reduction of his claims; and if such proposal, or any modification thereof, is accepted by the claimant, and his acceptance is recorded or attested by the Commissioner, such acceptance shall, in the event of a loan being granted under this Regulation, be conclusively binding upon the claimant.

Report by Commissioner.

12. When the Commissioner has completed the consideration of all claims submitted to him, he shall submit to the Chief Commissioner the schedule and statement referred to in section 10, and a report setting out in detail the claims against the applicant which he considers should be met from any loan sanctioned under this Regulation, together with a statement of any composition which has been agreed to by the claimants or by any of them.

Final [dis]posal [of] the [a]pplication.

13. (1) The Chief Commissioner, on receipt of a report under section 12, shall either—

(a) pass an order rejecting the application, or

(b) grant a loan to the applicant on such conditions regarding repayment and rate of interest as he may prescribe.

(2) If an order is passed under sub-section (1) granting a loan, such order shall specify the liabilities to be discharged by means of the loan.

Effect of stay of proceedings.

14. When an order has been passed under section 13 rejecting an application * * * * * *[1] the following consequences shall ensue, namely:—

(a) all rights and remedies shall revive to any claimants who have accepted a proposal for the reduction of their claims

[1] Words repealed by the Ajmere Amending Regulation, 1914 (II of 1914) (*infra*) are omitted.

under the provisions of section 11 as if such agreement had not been entered into, and

(*b*) in computing the period of limitation applicable to any suit or other proceeding for the recovery of claims due from the applicant, the period from the date of the publication of the notice under section 6, sub-section (*1*), to the date of the order rejecting the application, shall be excluded

15. (*1*) When a loan is granted under section 13, the Commissioner shall forthwith discharge therefrom the liabilities specified under section 13, sub-section (*2*), and shall notify the date of such discharge in the Gazette of India

Procedure on grant of loan.

(*2*) All the rights and remedies of claimants in respect of claims duly submitted under section 6, sub section (*1*) which are not discharged by the Commissioner under sub-section (*1*) shall revive as if no action had been taken under this Regulation, and in computing the period of limitation applicable to any suit or other proceeding for the recovery of such claims the period from the date of publication of the notice under section 6, sub-section (*1*), to the date of publication of the notification under sub-section (*1*), shall be excluded

16. (*1*) No suit shall be brought in any Civil Court against any talukdar upon any promise made after he has repaid a loan under this Regulation, to pay any debt contracted during the period between the grant and the repayment of such loan, or upon any ratification made after such loan has been repaid of any promise or contract made during such period, whether there is or is not any new consideration for such promise or ratification

No suit to be brought on subsequent promise.

(*2*) Nothing in sub-section (*1*) shall apply to the debts or liabilities specified in section 8

17. (*1*) If any talukdar to whom a loan has been granted under this Regulation—

Procedure on breach of conditions or of section 7 (*a*)

(*a*) infringes any condition imposed under section 13, sub section (*1*), clause (*b*), or

(*b*) attempts to do any act which, under section 7, clause (*a*) he is incompetent to do,

the Chief Commissioner may by order in writing declare such talukdar to be disqualified from managing his own property and such talukdar shall be deemed to be a landholder who is disqualified to manage his own property within the meaning of the [1]Ajmere Government Wards

[1] *Supra.*

Regulation, 1888, and the Court of Wards shall thereupon assume the superintendence of the property of such talukdar. Reg. I of 1888.

(2) The Court of Wards shall withdraw its superintendence from any property of which it has assumed superintendence under sub-section (1) as soon as all loans granted to such talukdar under the provisions of this Regulation have been repaid to Government with the interest thereon.

Termination of disability.

18. In each of the following cases, namely:—

(a) when a loan made under section 13 has been repaid to Government with the interest thereon, or

(b) when the amount so lent with interest has been recovered by the management of the property under section 17, or

(c) when an order rejecting an application has been passed under section 13,

the Commissioner shall notify, in the Gazette of India and in such other manner as the Chief Commissioner may, by special or general order, direct, that the talukdar has ceased to be subject to the disabilities mentioned in section 7, with effect from the date of the publication of such notification.

Death of applicant.

19. If an applicant, with regard to whom a notice has been published under section 6, dies before a notification under section 18 has been published—

(a) the proceedings under this Regulation shall be continued as nearly as possible in all respects as if he were still living,

(b) any person succeeding to the whole or any portion of his rights in land shall become subject in respect of those rights to the disabilities imposed by section 7, and shall continue so subject as if he had been the applicant.

Power to make rules.

20. (1) The Chief Commissioner, subject to the control of the Governor General in Council, may make rules for the purpose of carrying into effect the provisions of this Regulation.

(2) All rules made under this Regulation shall be published in the Gazette of India, and on such publication shall have effect as if they were enacted in this Regulation.

Protection of public servants.

21. No suit, prosecution or other proceeding shall be entertained in any Court against any public servant for anything done by him in pursuance or execution of this Regulation or done in good faith and in intended execution of this Regulation.

REGULATION No II OF 1914

[THE AJMERE REPEALING AND AMENDING REGULATION, 1914]

A Regulation to amend certain enactments in force in Ajmer-Merwara

(Received the assent of the Governor General on the 5th February, 1914, and published in the Gazette of India on the 7th idem)

WHEREAS, in order to give effect to administrative changes, it is expedient that certain amendments should be made in the enactments specified in the Schedule to this Regulation, It is hereby enacted as follows —

1. This Regulation may be called the Ajmere * * * [1] Amending Regulation, 1914 Short title.

2. *(1) The enactments specified in Part I of the Schedule are hereby* amended to the extent and in the manner mentioned in the fourth column thereof Amendment of certain enactments.

* * * [1]

THE SCHEDULE

PART I—AMENDMENTS

[See section 2 (1)]

1	2	3	4
Year	No	Subject or short title	Amendments
* * * [2]	**	* * * *	* * * * * * *
1877	II	The Ajmere Land and Revenue Regulation, 1877	In section 2, clause (*b*), after the word 'in' the words 'the whole or" shall be inserted. In section 114, clause (*b*), for the words 'the Collector" the words "a Collector other than the Commissioner," shall be substituted.

[1] In section 1, the words "Repealing and" and sub-section (2) of section 2 were omitted by s 2 and Sch of the Repealing Act 1927 (XII of 1927), since repealed

[2] The entry relating to Regulation I of 1877 was omitted by s 30 and Sch. of the Ajmere Courts Regulation, 1926 (IX of 1926), infra

Regulation, 1888, and the Court of Wards shall thereupon assume the superintendence of the property of such talukdar. Reg. I of 1888.

(2) The Court of Wards shall withdraw its superintendence from any property of which it has assumed superintendence under sub-section (*1*) as soon as all loans granted to such talukdar under the provisions of this Regulation have been repaid to Government with the interest thereon.

Termination of disability.

18. In each of the following cases, namely:—

(*a*) when a loan made under section 13 has been repaid to Government with the interest thereon, or

(*b*) when the amount so lent with interest has been recovered by the management of the property under section 17, or

(*c*) when an order rejecting an application has been passed under section 13,

the Commissioner shall notify, in the Gazette of India and in such other manner as the Chief Commissioner may, by special or general order, direct, that the talukdar has ceased to be subject to the disabilities mentioned in section 7, with effect from the date of the publication of such notification.

Death of applicant.

19. If an applicant, with regard to whom a notice has been published under section 6, dies before a notification under section 18 has been published—

(*a*) the proceedings under this Regulation shall be continued as nearly as possible in all respects as if he were still living,

(*b*) any person succeeding to the whole or any portion of his rights in land shall become subject in respect of those rights to the disabilities imposed by section 7, and shall continue so subject as if he had been the applicant.

Power to make rules.

20. (*1*) The Chief Commissioner, subject to the control of the Governor General in Council, may make rules for the purpose of carrying into effect the provisions of this Regulation.

(*2*) All rules made under this Regulation shall be published in the Gazette of India, and on such publication shall have effect as if they were enacted in this Regulation.

Protection of public servants.

21. No suit, prosecution or other proceeding shall be entertained in any Court against any public servant for anything done by him in pursuance or execution of this Regulation or done in good faith and in intended execution of this Regulation.

REGULATION No III OF 1914

[THE AJMERE ALIENATION OF LAND REGULATION, 1914]

A Regulation to provide for the control of the alienation of agricultural land in Ajmer-Merwara

[*Received the assent of the Governor General on the 19th February, 1914, and published in the Gazette of India on the 21st idem*]

WHEREAS it is expedient to provide for the control of the alienation of agricultural land in Ajmer Merwara, It is hereby enacted as follows —

CHAPTER I

Preliminary

1 (*1*) This Regulation may be called the Ajmer Alienation of Land Regulation, 1914 Short title, extent and commencement

(*2*) It extends to all the territories for the time being administered by the Chief Commissioner of Ajmer Merwara

(*3*) It shall come into force on such day as the Chief Commissioner, with the previous sanction of the Governor General in Council, may, by notification in the Gazette of India, direct

2 In this Regulation, unless there is anything repugnant in the subject or context— Definitions

(*1*) The expression "land" means land which is not occupied as the site of any building in a town or village and is occupied or let for agricultural purposes or for purposes subservient to agriculture or for pasture and includes—

(*a*) the site of buildings and other structures on such land,

(*b*) a share in the profits of an estate or holding,

(*c*) any dues or any fixed percentage of the land revenue payable by an inferior landowner to a superior landowner,

(*d*) a right to receive rent,

(*e*) any right to water enjoyed by the owner or occupier of land as such, and

(*f*) any right of occupancy

(*2*) The expression "permanent alienation" includes sales, exchanges, gifts, wills, and grants of occupancy rights

(3) The expression "usufructuary mortgage" means a mortgage by which the mortgagor delivers possession of the mortgaged land to the mortgagee and authorizes him to retain such possession until payment of the mortgage money, and to receive the rents and profits of the land and to appropriate them in lieu of interest or in payment of the mortgage money or partly in lieu of interest and partly in payment of the mortgage money: and the expression "conditional sale" includes any agreement whereby in default of payment of the mortgage money or interest at a certain time the land will be absolutely transferred to the mortgagee.

(4) "Collector" means any officer appointed by the Chief Commissioner to discharge the functions of a Collector under this Regulation in any part of Ajmer-Merwara.

(5) "Rent" means whatever is, in cash or in kind, to be paid or delivered by a tenant for land held by him, or on account of groves, tanks, rights of pasturage, or of gathering produce, forest rights, fisheries, the use of water for irrigation, or the like.

(6) "Tenant" means a person who holds land under another person and is or but for a special contract would be liable to pay rent for that land to that other person, but it does not include—

(*a*) an inferior landowner, or

(*b*) a mortgagee of the rights of a landowner, or

(*c*) a person to whom a holding has been transferred or an estate or holding has been let in farm for the recovery of an arrear of land revenue or of a sum recoverable as such an arrear, or

(*d*) a person who takes from the Government a lease of unoccupied land for the purpose of sub-letting it.

(7) "Land revenue" means land revenue assessed under any law for the time being in force or assessable under the Ajmer Land and Revenue Regulation, 1877,[1] and includes—

Reg. II of 1877.

(*a*) any rate imposed in respect of the increased value of land due to irrigation, and

(*b*) any sum payable in respect of land, by way of quit-rent or of commutation for service to the Government or to a person to whom the Government has assigned the right to receive the payment.

[1] *Supra.*

(*8*) "Revenue officer" has the same meaning as in the Ajmer Land and Revenue Regulation, 1877[1]

(*9*) "Legal practitioner" means an advocate, vakil or attorney of any High Court, a pleader, mukhtar or revenue agent

(*10*) "Agricultural year" means the year commencing on the 1st June or on such other date as the Chief Commissioner may by notification appoint

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CHAPTER II

Permanent alienation of land

3 (*1*) No alienation of land shall take effect as a permanent alienation unless and until sanction is given thereto by the Collector — *Sanction of Collector required to permanent alienation*

Provided that such sanction may be given after the act of alienation is otherwise completed

(*2*) The Collector shall inquire into the circumstances of the alienation and shall have discretion to grant or refuse the sanction required by sub-section (*1*)

4 When a Collector sanctions a permanent alienation of land, his order shall not be taken to decide or affect any question of title, or any question relating to any reversionary right or right of pre-emption — *Saving of rights in land alienated*

CHAPTER III

Temporary alienations of land

5 (*1*) No land shall be mortgaged except in some one or other of the following forms —

(*a*) in the form of a usufructuary mortgage by which the mortgagor delivers possession of the land to the mortgagee and authorizes him to retain such possession and to receive the rents and profits of the land in lieu of interest and towards payment of the principal, on condition that after the expiry of the term agreed on, or (if no term is agreed on, or if the term agreed on exceeds twenty years) after the expiry of twenty years, the land shall be re delivered to the mortgagor, or — *Forms of mortgage permitted in certain cases*

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[1] *Supra*

(*3*) The expression " usufructuary mortgage " means a mortgage by which the mortgagor delivers possession of the mortgaged land to the mortgagee and authorizes him to retain such possession until payment of the mortgage money, and to receive the rents and profits of the land and to appropriate them in lieu of interest or in payment of the mortgage money or partly in lieu of interest and partly in payment of the mortgage money: and the expression " conditional sale " includes any agreement whereby in default of payment of the mortgage money or interest at a certain time the land will be absolutely transferred to the mortgagee.

(*4*) " Collector " means any officer appointed by the Chief Commissioner to discharge the functions of a Collector under this Regulation in any part of Ajmer-Merwara.

(*5*) " Rent " means whatever is, in cash or in kind, to be paid or delivered by a tenant for land held by him, or on account of groves, tanks, rights of pasturage, or of gathering produce, forest rights, fisheries, the use of water for irrigation, or the like.

(*6*) " Tenant " means a person who holds land under another person and is or but for a special contract would be liable to pay rent for that land to that other person, but it does *not* include—

(*a*) an inferior landowner, or

(*b*) a mortgagee of the rights of a landowner, or

(*c*) a person to whom a holding has been transferred or an estate or holding has been let in farm for the recovery of an arrear of land revenue or of a sum recoverable as such an arrear, or

(*d*) a person who takes from the Government a lease of unoccupied land for the purpose of sub-letting it.

(*7*) " Land revenue " means land revenue assessed under any law for the time being in force or assessable under the Ajmer Land and Revenue Regulation, 1877,[1] and includes—

Reg. II of 1877.

(*a*) any rate imposed in respect of the increased value of land due to irrigation, and

(*b*) any sum payable in respect of land, by way of quit-rent or of commutation for service to the Government or to a person to whom the Government has assigned the right to receive the payment.

[1] *Supra.*

(*8*) "Revenue officer" has the same meaning as in the Ajmer Land and Revenue Regulation, 1877[1]

(*9*) "Legal practitioner" means an advocate, vakil or attorney of any High Court, a pleader mukhtar or revenue agent

(*10*) "Agricultural year" means the year commencing on the 1st June or on such other date as the Chief Commissioner may by notification appoint

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CHAPTER II

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Sanction of Collector required to permanent alienation.

Provided that such sanction may be given after the act of alienation is otherwise completed

(*2*) The Collector shall inquire into the circumstances of the alienation and shall have discretion to grant or refuse the sanction required by sub section (*1*)

4 When a Collector sanctions a permanent alienation of land his order shall not be taken to decide or affect any question of title, or any question relating to any reversionary right or right of pre emption

Saving of rights in land alienated

CHAPTER III

Temporary alienations of land

5 (*1*) No land shall be mortgaged except in some one or other of the following forms —

Forms of mortgage permitted in certain cases

(*a*) in the form of a usufructuary mortgage by which the mortgagor delivers possession of the land to the mortgagee and authorizes him to retain such possession and to receive the rents and profits of the land in lieu of interest and towards payment of the principal, on conditon that after the expiry of the term agreed on, or (if no term is agreed on, or if the term agreed on exceeds twenty years) after the expiry of twenty years, the land shall be re delivered to the mortgagor, or

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[1] *Supra*

(*b*) in the form of a mortgage without possession subject to the condition that, if the mortgagor fails to pay principal and interest according to his contract the mortgagee may apply to the Collector to place him in possession for such term not exceeding twenty years as the Collector may consider to be equitable, the mortgage to be treated as a usufructuary mortgage for the term of the mortgagee's possession and for such sum as may be due to the mortgagee on account of the balance of principal due and of interest due not exceeding the amount claimable as simple interest at such rate and for such period as the Collector thinks reasonable; or

(*c*) in the form of a written usufructuary mortgage by which the mortgagor recognises the mortgagee as a landlord and himself remains in cultivating occupancy of the land as a tenant for such term as may be agreed upon, subject to the condition that if the mortgagor is ejected, or surrenders, or abandons cultivating occupancy of the land the mortgage shall take effect as a usufructuary mortgage in form (*a*) for such term not exceeding twenty years from the date of the ejectment, surrender or abandonment, and for such sum of money as the Collector thinks reasonable; or

(*d*) in any form which the Chief Commissioner may, by general or special order, permit to be used.

(*2*) The Collector, if he accepts the application of a mortgagee under sub-section (*1*) (*b*), shall have power to eject the mortgagor, and as against the mortgagor to place the mortgagee in possession.

Rules applying to permitted mortgages.

6. In the case of mortgages made under section 5—

(*1*) No interest shall accrue during the period for which the mortgagee is in possession of the land or in receipt of rent;

(*2*) If the mortgage is in form (*a*) or form (*b*) then at the end of such period of possession the mortgage debt shall be extinguished;

(*3*) the mortgagor may redeem his land at any time during the currency of the mortgage on payment of the mortgage debt, or in the case of a mortgage in form (*a*) or form (*b*), of such proportion of the mortgage debt as the Collector determines to be equitable;

(*4*) in the case of a usufructuary mortgage the mortgagor shall not be deemed to bind himself personally to repay the mortgage money; and

(*5*) if a mortgagor who has applied to the Collector under sub section (*3*) proves to the satisfaction of the Collector that he has paid the mortgage debt or such proportion of the mortgage debt as the Collector has determined to be equitable, or deposits with the Collector the amount of such mortgage debt or of such proportion thereof the redemption of the land shall be deemed to have taken place and the Collector shall have power to eject the mortgagee if in possession and as against the mortgagee to place the mortgagor in possession

7 (*1*) In a mortgage made under section 5 the following conditions may be added by agreement between the parties — Conditions in permitted mortgages.

(*a*) a condition fixing the time of the agricultural year at which a mortgagor redeeming his land may resume possession thereof

(*b*) conditions limiting the right of a mortgagor or mortgagee in possession to cut sell or mortgage trees or to do any act affecting the permanent value of the land and

(*c*) any condition which the Chief Commissioner by general or special order may declare to be admissible

(*2*) In mortgages made under section 5 any condition not permitted by or under this Regulation shall be null and void

8 (*1*) If any land is mortgaged in any manner or form not permitted under this Regulation the Collector shall have authority to revise and alter the terms of the mortgage so as to bring it into accordance with such form of mortgage permitted by or under this Regulation as the mortgagee appears to him to be equitably entitled to claim Power to revise mortgages made in form not permitted and mortgages by conditional sale

(*2*) If before the commencement of this Regulation any land has been mortgaged in any form containing a condition intended to operate by way of conditional sale the Collector shall have authority, at any time during the currency of the mortgage to put the mortgagee to his election whether he will agree to the said condition being struck out, or to accept, in lieu of the said mortgage, a mortgage which may at the mortgagee's option be either in form (*a*) or in form (*b*) as provided by section 5 and which shall be made for such period not exceeding the period permitted by the said section, and for such sum of money as the Collector considers to be equitable

(*3*) If proceedings for the enforcement of the condition intended to operate by way of conditional sale are instituted or are pending at the commencement of this Regulation in any Civil Court, or if a suit is instituted in any Civil Court, on a mortgage to which sub section (*1*) or

sub-section (*2*) applies, the Court shall, if it finds that the mortgage is enforceable or that the mortgagee is entitled to a decree absolute for foreclosure, refer the case to the Collector with a view to the exercise of the power conferred by the sub-section applying thereto.

(*4*) When a mortgagee put to his election under sub-section (*2*) agrees to accept in lieu of his mortgage a mortgage in form (*a*) or in form (*b*) as permitted by section 5 for the period and for the sum of money considered by the Collector to be reasonable and the mortgagor cannot be found, or fails to appear when duly served with notice to do so, or refuses or neglects to execute such mortgage, the Collector shall have authority to execute such mortgage on such terms as to costs as he may fix and the mortgage so executed shall have effect as if it had been executed by the mortgagor. The Collector may, for any reason which he deems sufficient, set aside any *ex-parte* proceedings taken under this sub-section.

Future mortgage by way of conditional sale not permitted.

9. In any mortgage of land made after the commencement of this Regulation any condition which is intended to operate by way of conditional sale shall be null and void.

Leases and farms.

10. Except with the sanction of the Chief Commissioner, given by general or special order, no land may be leased or farmed for a term exceeding twenty years, and any lease or farm made without the Chief Commissioner's sanction for a longer term than twenty years shall be deemed to be a lease or farm for the term permitted by this section.

Restriction on power to make further temporary alienation.

11. (*1*) During the currency of a mortgage made under section 5 in form (*a*) or form (*b*) or of a lease or farm under this Regulation, the owner shall be at liberty to make a further temporary alienation of the same land for such term as together with the term of the current mortgage, lease or farm will make up a term not exceeding the full term of twenty years.

(*2*) Any such further temporary alienation, if made for longer term than is permitted by this section, shall, except as provided in section 10, be deemed to be a temporary alienation for the term permitted by this section.

Ejectment of mortgagee, lessee or farmer remaining in possession after term.

12. If a mortgagee, lessee, or farmer holding possession under a mortgage made under section 5, or under a lease or farm made under section 10 or under a mortgage, lease or farm made under section 11, remains in possession after the expiry of the term for which he is entitled to hold under his mortgage, lease or farm, the Collector may, of his own motion or on the application of the person entitled to possession, eject such mortgagee, lessee or farmer and place the person so entitled in possession.

CHAPTER IV

General Provisions

13 Any alienation of land which in accordance with the provisions of section 3 requires the sanction of the Collector in order that it may take effect as a permanent alienation shall until such sanction is given or if such sanction is refused take effect as a usufructuary mortgage in form (a) permitted by section 5 for such term not exceeding twenty years and on such conditions as the Collector considers to be reasonable

Effect of permanent alienation made without sanction.

14 Every agreement which purports to alienate the produce of land or any part of or share in such produce for more than one year shall not take effect for more than one year from the date of the agreement unless the sanction of the Collector is given thereto and shall, until such sanction is given or if such sanction is refused take effect as if it had been made for one year

Sanction of Collector required to certain alienations of or charge on produce of land

15 (1) Except with the previous sanction of the Chief Commissioner, no land shall be sold in execution of any decree or order of any Civil or Revenue Court whether made before or after the commencement of this Regulation

Execution sale of land forbidden

(2) Nothing in this section shall affect the right of Government to recover arrears of land revenue or any dues which are recoverable as arrears of land revenue in any manner permitted by law

16 When a Civil Court passes a decree on a mortgage made before the commencement of this Regulation not being a mortgage with a condition intended to operate by way of conditional sale, and such decree would but for the provisions of section 15 be executed by sale of land, the Court shall transfer the execution of the decree to the Collector, who shall offer the decree holder in full satisfaction of his decree a mortgage in form (a) or in form (b) of section 5 for such period not exceeding twenty years as the Collector considers reasonable

Transfer to Collector of decrees on certain mortgages

17 Notwithstanding anything in the Indian Registration Act 1908[1], or in any rules made under section 69 of that Act—

Registration

(1) an instrument which contravenes any provision of this Regulation shall not be admitted to registration,

(2) an instrument which records or gives effect to any transaction which requires the sanction of the Collector, shall not be admitted to registration until a certified copy of the order giving such sanction is produced to the officer empowered to register such instrument

[1] General Acts Vol IV

Record of rights and annual register.

18. (*1*) Where, by reason of any transaction which under this Regulation requires the sanction of the Collector, a person claims to have acquired a right the acquisition whereof he is bound to report under section 34 of the Punjab Land Revenue Act, 1887[1], as extended to X Ajmer-Merwara, such person shall, in making his report, state whether 1 the sanction required has been obtained or not, and his right so acquired shall not be entered in the record of rights or in any annual register until he produces such evidence of the order by which such sanction is given as may be required by any rules made under this Regulation.

(*2*) No right claimed by reason of any transaction or condition which is declared by this Regulation to be null and void shall be entered in the record of rights or in any annual register.

Application of the Ajmer Land and Revenue Regulation, 1877.

19. Subject to the provisions of this Regulation, the provisions of the Ajmer Land and Revenue Regulation, 1877[1], Parts I to IV inclusive, Re shall, in so far as they are applicable, apply to the proceedings of Reve- 18 nue-officers under this Regulation.

Appearance of legal practitioners forbidden.

20. No legal practitioner shall appear on behalf of any party interested in any proceeding before a Revenue-officer under this Regulation.

Jurisdiction of Civil Courts excluded.

21. (*1*) A Civil Court shall not have jurisdiction in any matter which the Local Government or a Revenue-officer is empowered by the Regulation to dispose of.

(*2*) No Civil Court shall take cognizance of the manner in which the Local Government or any Revenue-officer exercises any power vested in it or in him by or under this Regulation.

Civil Court to send copy of decree or order to Collector.

22. (*1*) Notwithstanding anything contained in the Code of Civil Procedure, 1908, or in any other Act or Regulation for the time being V of in force, every Civil Court which passes a decree or order involving the permanent alienation of any land shall send to the Collector a copy of such decree or order.

Action to be taken by Collector, when decree or order passed contrary to Regulation.

(*2*) When it appears to the Collector that any Civil Court has, at any time after this Regulation has come into force, passed a decree or order contrary to any of the provisions of this Regulation, the Collector may apply for the revision of such decree or order to the Court, if any, to which an appeal would lie from such decree or order or in which an appeal could have been instituted at the time when the decree or order was passed, or in any other case to the Court of the Chief Commissioner. And when the Court finds that such decree or order is contrary to any of the provisions of this Regulation, it shall alter it so as to make it consistent with this Regulation. Such application

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[1] *Supra.*

shall be made within two months of the date upon which the Collector is informed of such decree or order

(3) When any such Appellate Court passes an order rejecting such application, the Collector may, within two months after the date upon which he is informed of such order, apply to the Court of the Chief Commissioner for revision thereof

(4) Every Civil Court which passes an order on any application made under this section shall forthwith send a copy thereof to the Collector

(5) No stamp shall be required upon such applications, and the provisions of the Code of Civil Procedure 1908, as regards appeals shall apply, so far as may be, to the procedure of the Court, on receipt of such application

Provided that no appearance by or on behalf of the Collector shall be deemed necessary for the disposal of the application

23 The powers conferred by this Regulation upon the Collector may be exercised by a Revenue officer of higher rank or by any officer authorized by the Chief Commissioner in this behalf Exercise of powers of Collector

24 The Chief Commissioner, with the previous sanction of the Governor General in Council, may, by notification in the Gazette of India, exempt any person or class of persons from the operation of this Regulation or of any of the provisions thereof Exemption

25 (1) The Chief Commissioner may subject to the control of the Governor General in Council, make rules for carrying into effect the purposes of this Regulation Power to make rules

(2) In particular and without prejudice to the generality of the foregoing power, the Chief Commissioner may make rules prescribing the Revenue Officers to whom applications may be made, and the manner and form in which such applications shall be made and disposed of

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REGULATION No I OF 1915

[THE EXCISE REGULATION, 1915]

A Regulation to consolidate and amend the Excise Law in force in Ajmer Merwara [Coorg and British Baluchistan]

(Received the assent of the Governor General on the 6th January, 1915, published in the Gazette of India on the 16th January, 1915)

WHEREAS it is expedient to consolidate and amend the law in the provinces of Ajmer Merwara [Coorg and British Baluchistan], relating to the import, export, transport, manufacture, sale and possession of

intoxicating liquor and of intoxicating drugs; It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

Short title, extent and commencement.

1. (*1*) This Regulation may be called the Excise Regulation, 1915.

(*2*) It extends to the provinces of Ajmer-Merwara [Coorg and British Baluchistan]:

[Provided that the provisions of this Regulation relating to *tari* shall not apply to the province of British Baluchistan;] and

(*3*) It shall come into force on such date[1] as the Chief Commissioner may, by notification, direct.

Definitions.

2. In this Regulation, unless there is anything repugnant in the subject or context,—

(*1*) " beer " includes ale, stout, porter and all other fermented liquors usually made from malt:

(*2*) " to bottle " means to transfer liquor from a cask or other vessel to a bottle, jar, flask or other similar receptacle for the purpose of sale, and " bottling " includes re-bottling:

(*3*) " Excise Commissioner " means the officer appointed by the Chief Commissioner under section 7, clause (*a*):

(*4*) " denatured " means rendered unfit for human consumption in such manner as the Chief Commissioner may, by notification, prescribe:

(*5*) " excisable article " means any liquor or intoxicating drug as defined by or under this Regulation:

(*6*) " Excise-officer " means a Collector or any officer or other person appointed or invested with powers under section 7:

(*7*) " excise-revenue " means revenue derived or derivable from any duty, fee, tax, penalty payment (other than a fine imposed by a Court of law) or confiscation imposed or ordered under the provisions of this Regulation, or of any other law for the time being in force relating to liquor or intoxicating drugs:

[2][(*8*) ' export ' means to take out of the province:

Provided that, in the case of intoxicating drugs specified in sub-clauses (*i*), (*ii*) and (*iii*) of clause (*11*), it means to export inter-provincially, as defined in clause (*l*) of section 2 of the Dangerous Drugs Act, 1930];

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[1] The 15th February 1915 *see* Gazette of India, 1915, Pt. II, p. 327.

[2] Sub-sections (*8*), (*10*) and (*11*) were substituted and sub-section (*9*) was omitted by s. 40 and Sch. II of the Dangerous Drugs Act, 1930, (II of 1930).

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1[(10) 'import' means to bring into the province.

Provided that, in the case of intoxicating drugs specified in sub-clauses (i), (ii) and (iii) of clause (11), it means to import inter-provincially, as defined in clause (j) of section 2 of the Dangerous Drugs Act, 1930]:

1[(11) 'intoxicating drug' means—

(i) the leaves, small stalks and flowering or fruiting tops of the Indian hemp plant (*Cannabis sativa L.*), including all forms known as *bhang*, *siddhi*, or *ganja*,

(ii) *charas*, that is, the resin obtained from the Indian hemp plant, which has not been submitted to any manipulations other than those necessary for packing and transport,

(iii) any mixture, with or without neutral materials of any of the above forms of hemp or any drink prepared therefrom, and

(iv) any other intoxicating or narcotic substance which the Chief Commissioner may, by notification, declare to be an intoxicating drug, such substance not being opium, coca leaf or a manufactured drug, as defined in section 2 of the Dangerous Drugs Act, 1930.]

(12) "liquor" means intoxicating liquor, and includes spirits of wine, spirit, wine, *tari*, beer, all liquid consisting of or containing alcohol, and any substance which the Chief Commissioner may, by notification, declare to be liquor for the purposes of this Regulation

(13) "manufacture" includes every process, whether natural or artificial, by which any excisable article is produced or prepared, and also redistillation and every process for the rectification, flavouring, blending or colouring of liquor.

(14) "notification" means notification in the local official Gazette:

(15) "place" includes house, building, shop, booth, tent, vessel, raft and vehicle

(16) expressions referring to "sale" include any transfer otherwise than by way of gift:

(17) "spirit" means any liquor containing alcohol obtained by distillation whether it is denatured or not:

(18) "*tari*" means fermented or unfermented juice drawn from any kind of palm tree, and

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1 Sub sections (8), (10) and (11) were substituted and sub section (9) was omitted by s. 40 and Sch. II of the Dangerous Drugs Act, 1930 (II of 1930)

Restriction on import, export or transport.

9. No excisable article shall be imported, exported or transported except,—

(*a*) after payment of any duty of customs or excise to which it may be liable, or execution of a bond for such payment; or

(*b*) on compliance with such conditions as the Chief Commissioner may impose.

Requirement of pass for import, export or transport.

10. No excisable article exceeding such quantity as the Chief Commissioner may prescribe by notification, either generally or for any specified area, shall be imported, exported or transported, except under a pass issued, or deemed to be issued, under the provisions of this Regulation:

Provided that in the case of duty paid foreign liquor such passes shall be dispensed with, unless the Chief Commissioner shall, by notification, otherwise direct with respect to any local area.

Passes for import, export or transport.

11. (*1*) Except when otherwise directed by the Excise Commissioner, passes for the import, export or transport of excisable articles may be granted by the Collector.

(*2*) Such passes may be either general for definite periods and kinds of excisable articles, or special for specified occasions and particular consignments only.

Passes issued by other authorities may be deemed passes granted under this Regulation.

12. The Excise Commissioner may, by general or special order, direct, subject to such conditions (if any) as he may impose, that a pass granted by any authority in India shall be deemed to be a pass for any purpose under this Regulation.

CHAPTER IV.

MANUFACTURE, POSSESSION AND SALE.

License required for manufacture of excisable articles.

13. (*a*) No excisable article shall be manufactured or collected;

(*b*) no hemp [1] * * plant shall be cultivated;

(*c*) no *tari*-producing tree shall be tapped and no *tari* shall be drawn from any tree;

(*d*) no liquor shall be bottled for sale;

(*e*) no distillery or brewery shall be constructed or worked; and

(*f*) no person shall use, keep or have in his possession any materials, still, utensil, implement or apparatus whatsoever for the purpose of manufacturing any excisable article other than *tari*,

[1] The words "or coca" were omitted by s. 40 and Sch. II of the Dangerous Drugs Act, 1930 (II of 1930).

except under the authority and subject to the terms and conditions of a license granted in that behalf

Provided that the Chief Commissioner may, by notification, declare that the provisions of this section shall not apply, in any area specified in this behalf, to the tapping of *tari*-producing trees, or the drawing of *tari* under such conditions as he may prescribe

Establishment or licensing of distilleries and ware houses

14 The Excise Commissioner may—

(*a*) establish a distillery in which spirit may be manufactured under a license granted under section 13 on such conditions as the Chief Commissioner may impose,

(*b*) discontinue any such distillery,

(*c*) license, on such conditions as the Chief Commissioner may impose the construction and working of a distillery or brewery,

(*d*) establish or license a warehouse wherein any excisable article may be deposited and kept without payment of duty, and

(*e*) discontinue any such warehouse

Payment of duty on *removal* from distillery, *brewery or* place of storage

15 Without the sanction of the Chief Commissioner no excisable article shall be removed from any distillery brewery warehouse or other place of storage established or licensed under this Regulation unless the duty (if any) imposed under section 24 has been paid or a bond has been executed for the payment thereof

Possession of excisable articles *generally*

16 (*1*) The Chief Commissioner may, by notification prescribe a limit of quantity for the possession of any excisable article

Provided that different limits may be prescribed for different qualities of the same article

(*2*) No person shall have in his possession any quantity of any excisable article in excess of the limit prescribed under sub section (*1*), except under the authority and in accordance with the terms and conditions of—

(*a*) a license for the manufacture, cultivation, collection, sale or supply of such article, or

(*b*) a permit granted by the Collector in that behalf

(*3*) Sub sect on (*2*) shall not apply to any foreign liquor—

(*a*) which is in the possession of any common carrier or warehouseman as such or

(*b*) which is lawfully procured by and in the possession of any person for his *bona fide* private consumption and not for sale

(*4*) Notwithstanding anything contained in the foregoing sub-sections, the Chief Commissioner may, by notification, prohibit the possession by any person or class of persons, either throughout the province or in any specified area, of any excisable article either absolutely, or subject to such conditions as he may prescribe.

License required for sale of excisable articles.

17. (*1*) No excisable article shall be sold except under the authority and subject to the terms and conditions of a license granted in that behalf:

Provided that—

(*a*) a person having the right to the *tari* drawn from any tree may sell such *tari* without a license to a person licensed to manufacture or sell *tari* under this Regulation;

(*b*) nothing in this section shall apply to the sale of any foreign liquor lawfully procured by any person for his private use and sold by him or on his behalf or on behalf of his representatives in interest upon his quitting a station or after his decease.

(*2*) On such conditions as the Excise Commissioner may determine, a license for sale under the Excise law for the time being in force in other parts of British India may be deemed to be a license granted in that behalf under this Regulation.

Power to grant lease of right to manufacture, etc.

18. (*1*) The Chief Commissioner may lease to any person, on such conditions and for such period as he may think fit, the right—

(*a*) of manufacturing or of supplying by wholesale, or of both, or

(*b*) of selling by wholesale or by retail, or

(*c*) of manufacturing or of supplying by wholesale, or of both, and of selling by retail,

any country liquor or intoxicating drug within any specified area.

(*2*) the licensing authority may grant to a lessee under sub-section (*1*) a license in the terms of his lease; and, when there is no condition in the lease which prohibits sub-letting, may, on the application of the lessee, grant a license to any sub-lessee approved by such authority.

Lessee's permission to draw *tari*.

19. Where a right of manufacturing *tari* has been leased under section 18, the Chief Commissioner may declare that the written permission of the lessee to draw *tari* shall have the same force and effect as a license from the Collector for that purpose.

20 Within the limits of any military cantonment, and within such distance from those limits as the Chief Commissioner in any case may prescribe, no license for the retail sale of liquor shall be granted, except with the knowledge and consent of the Commanding Officer Manufacture and sale of liquor in military canton ments

21 Every person who manufactures or sells any excisable article under a license granted under this Regulation shall be bound— Duties of licensees with regard to measurement and testing

(*a*) to supply himself with such measures weights and instruments as the Excise Commissioner may prescribe and to keep the same in good condition and on the licensed premises and

(*b*) on the requisition of any Excise officer duly empowered in that behalf at any time to measure weigh or test any excisable article in his possession in such manner as the said Excise officer may require

22 (*1*) No person who is licensed to sell any excisable article for consumption on his premises shall during the hours in which such premises are kept open for business employ or permit to be employed either with or without remuneration any child under such age as the Chief Commissioner may by rule prescribe in this behalf in any part of such premises in which such excisable article is consumed by the public Prohibition of employment of children and of women.

(*2*) No person who is licensed to sell any excisable article for consumption on his premises shall without the previous permission in writing of the Collector during the hours in which such premises are kept open for business employ or permit to be employed either with or without remuneration any woman in any part of such premises in which such excisable article is consumed by the public

(*3*) Every permission granted under sub section (*2*) shall be endorsed on the license and may be modified or withdrawn

23 (*1*) The District Magistrate by notice in writing to the licensee may require that any shops in which any excisable article is sold shall be closed at such times or for such period as he may think necessary for the preservation of the public peace Closing of shops for the sake of public peace

(*2*) If a riot or unlawful assembly is apprehended or occurs in the vicinity of any such shop a Magistrate of any class or any police officer above the rank of constable who is present may require such shop to be kept closed for such period as he may think necessary

Provided that where any riot or unlawful assembly so occurs the licensee shall in the absence of such Magistrate or officer close his shop without any order and keep it closed during the continuance of such riot or unlawful assembly

CHAPTER V.

DUTIES AND FEES.

Duty on excisable articles.

24. (*1*) The Chief Commissioner may, by notification, impose a duty, at such rate or rates as he thinks fit, either generally or for any specified area, on any excisable article—

(*a*) imported; or

(*b*) exported; or

(*c*) transported; or

(*d*) manufactured, cultivated or collected under any license granted under section 13; or

(*d*) manufactured, cultivated or collected under any license granted brewery licensed under this Regulation.

(*2*) Duty may be imposed under sub-section (*1*) at different rates according to the places to which any excisable article is to be removed, or according to the strength and quality of such article.

(*3*) Notwithstanding anything contained in sub-section (*1*),—

(*i*) duty shall not be imposed thereunder on any article which has been imported into British India and was liable, on such importation, to duty under the Sea Customs Act, 1878[1], or the Indian Tariff Act, 1894[2]; VIII of 1878. VIII of 1894.

(*ii*) duty imposed thereunder on denatured spirit or beer manufactured in British India shall, unless the Chief Commissioner with the previous sanction of the Governor General in Council otherwise directs, be equal to the duty to which denatured spirit or beer, as the case may be, when imported into British India by sea, is liable under the Indian Tariff Act, 1894[2], or any other law for the time being in force relating to the duties of customs on goods imported into British India. VIII of 1894.

Ways of levying such duty.

25. Subject to such rules regulating the time, place and manner as the Chief Commissioner may prescribe, such duty shall be levied rateably on the quantity of excisable article imported, exported, transported, collected or manufactured in or issued from a distillery, brewery or warehouse:

[1] General Acts, Vol. II.
[2] General Acts, Vol. III.

Provided that—

(*1*) duty may be levied—

(*a*) on spirit or beer manufactured in any distillery established or any distillery or brewery licensed under this Regulation—

(i) in accordance with such scale of equivalents calculated on the quantity of materials used, or by the degree of attenuation of the wash or wort, as the case may be, as the Chief Commissioner may prescribe, or

(ii) by a rate charged directly on the materials used;

(*b*) on *tari*, by a tax on each tree from which the *tari* is drawn;

(*2*) where payment is made upon the issue of an excisable article for sale from a warehouse, it shall be at the rate of duty in force on the date of issue of such article from the warehouse.

26. Instead of or in addition to any duty leviable under this Chapter, the Chief Commissioner may accept payment of a sum in consideration of the grant of any lease under section 18. Payment for grant of leases.

CHAPTER VI

Licenses, Permits and Passes

27. Every license, permit or pass granted under this Regulation— Form and conditions of licenses, etc.

(*a*) shall be granted—

(i) on payment of such fees (if any),

(ii) for such period,

(iii) subject to such restrictions and on such conditions, and

(*b*) shall be in such form and contain such particulars,

as the Chief Commissioner may direct either generally or in any particular instance.

28. Any authority granting a license under this Regulation may require the licensee to give such security for the observance of the terms of his license, or to make such deposit in lieu of security, as such authority may think fit. Power to take security from licensees.

29. (*1*) No license granted under this Regulation shall be deemed to be invalid by reason merely of any technical defect, irregularity or omission in the license or in any proceedings taken prior to the grant thereof. Technical defects, irregularities and omissions.

(2) The decision of the Excise Commissioner as to what is a technical defect, irregularity or omission shall be final.

Power to cancel or suspend license, etc.

30. (1) Subject to such restrictions as the Chief Commissioner may prescribe, the authority granting any license, permit or pass under this Regulation may cancel or suspend it—

(a) if any duty or fee payable by the holder thereof be not duly paid; or

(b) in the event of any breach by the holder thereof, or by any of his servants, or by any one acting on his behalf with his express or implied permission, of any of the terms or conditions thereof; or

(c) if the holder thereof, or any of his servants, or any one acting on his behalf with his express or implied permission, is convicted of any offence under this Regulation or any other law for the time being in force relating to excise-revenue; or

(d) if the holder thereof is convicted of any cognizable and non-bailable offence or of any offence [1][under the Dangerous Drugs Act, 1930, or] under the Indian Merchandise Marks Act, 1889[2], or under any section which has been introduced into the Indian Penal Code by section 3 of that Act; or of any offence punishable under clause (8) of section 167 of the Sea Customs Act, 1878[3]; or

IV of 1 XLV of VIII of 1878.

(e) where a license, permit or pass has been granted on the application of the holder of any lease granted under section 18, on the requisition in writing of such lessee; or

(f) if the conditions of the license, permit or pass provide for such cancellation or suspension at will.

(2) Where a license, permit or pass held by any person is cancelled under clause (a), clause (b), clause (c) or clause (d) of sub-section (1), the authority aforesaid may cancel any other license, permit or pass granted to such person under this Regulation or under any other law for the time being in force relating to excise-revenue, or under the Opium Act, 1878. I of 1878

(3) The holder shall not be entitled to any compensation for its cancellation or suspension, nor to the refund of any fee paid or deposit made in respect thereof.

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[1] These words were inserted by s. 40 and Sch. II of the Dangerous Drugs Act, 1930 (II of 1930).
[2] General Acts, Vol. III.
[3] General Acts, Vol. II.

(*4*) Where a license, permit or pass is cancelled or suspended under clause (*a*), clause (*b*), clause (*c*) or clause (*d*) of sub-section (*1*),—

(*a*) the fee payable for the balance of the period for which such license would have been current but for such cancellation or suspension, may be recovered from the ex-licensee as excise-revenue;

(*b*) the Collector may take the grant under management or resell it, but any profit realized by such management or resale which is not in excess of the amount recovered for such period shall be paid to the ex-licensee.

31. (*1*) Whenever the authority which granted any license under this Regulation considers that such license should be withdrawn for any cause other than those specified in section 30, it shall remit a sum equal to the amount of the fees payable in respect thereof for fifteen days, and may withdraw the license either— Power to withdraw licenses.

(*a*) on the expiration of fifteen days' notice in writing of its intention to do so, or

(*b*) forthwith without notice.

(*2*) If any license be withdrawn under clause (*b*) of sub-section (*1*), the aforesaid authority shall, in addition to remitting such sum as aforesaid, pay to the licensee such further sum (if any) by way of compensation as the Excise Commissioner may direct.

(*3*) When a license is withdrawn under sub-section (*1*), any fee paid in advance or deposit made by the licensee in respect thereof shall be refunded to him after deducting the amount (if any) due to Government.

32. (*1*) Any holder of a license granted under this Regulation to sell an excisable article may surrender his license on the expiration of one month's notice in writing given by him to the Collector of his intention to surrender the same, and on payment of the fee payable for the license for the remainder of the period for which it would have been current but for such surrender: Surrender of license.

Provided that if the Excise Commissioner is satisfied that there is sufficient reason for surrendering a license, he may remit to the holder thereof the sum so payable on surrender or any portion thereof.

(*2*) Sub-section (*1*) shall not apply in the case of any license granted under section 18.

Explanation.—The words "holder of a license" as used in this section include a person whose tender or bid for a license has been accepted although he may not actually have received the license.

CHAPTER VII.

OFFENCES AND PENALTIES.

Penalty for illegal import, etc.

33. Whoever, in contravention of this Regulation, or of any rule, notification or order made, issued or given thereunder, or of any license, permit or pass granted under this Regulation,—

(*a*) imports, exports, transports, manufactures, collects or possesses any excisable article; or

(*b*) save in the cases provided for in section 37, sells any excisable article; or

(*c*) cultivates any hemp [1]* * * plant; or

(*d*) taps or draws *tari* from any *tari*-producing tree; or

(*e*) constructs or works any distillery or brewery; or

(*f*) uses, keeps or has in his possession any materials, still, utensil, implement or apparatus whatsoever for the purpose of manufacturing any excisable article other than *tari;* or

(*g*) removes any excisable article from any distillery, brewery or warehouse license, established or continued under this Regulation; or

(*h*) bottles any liquor;

shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both:

[1]* * *

Penalty for rendering denatured spirit fit for human consumption.

34. Whoever—

(*a*) renders fit for human consumption any spirit which has been denatured; or

(*b*) has in his possession any spirit in respect of which he knows or has reason to believe that any such offence has been committed, or that an attempt to commit such offence has been made;

shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to one thousand rupees, or with both.

Penalty for illegal possession.

35. Whoever, without lawful authority, has in his possession any quantity of any excisable article knowing the same to have been unlaw-

[1] The words "or coca" and the proviso to s. 33 were omitted by s. 40 and Sch. II of the Dangerous Drugs Act, 1930 (II of 1930).

fully imported, transported, manufactured, cultivated or collected, or knowing the prescribed duty not to have been paid thereon, shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

Penalty for offences not otherwise provided for.

36. Whoever does any act in contravention of any of the provisions of this Regulation, or of any rule, notification or order made, issued or given thereunder and not otherwise provided for in this Regulation shall be punishable with fine which may extend to two hundred rupees.

Penalty for certain unlawful acts of licensed vendors.

37. (*1*) A licensed vendor or any person in his employ and acting on his behalf who—

(*a*) sells any excisable article to a person who is drunk, or

(*b*) sells or gives any excisable article to any child apparently under such age as the Chief Commissioner may by rule prescribe in this behalf, or

(*c*) in contravention of section 22 employs or permits to be employed on any part of his licensed premises referred to in that section any child or woman, or

(*d*) permits drunkenness, disorderly conduct or gaming on the premises of such vendor, or

(*e*) permits persons whom he knows or has reason to believe to have been convicted of any non-bailable offence, or who are reputed prostitutes, to resort to or assemble on the premises of such vendor whether for the purposes of crime or prostitution or not,

shall be punishable with fine which may extend to five hundred rupees.

(*2*) Where any licensed vendor or any person in his employ and acting on his behalf, is charged with permitting drunkenness on the premises of such vendor, and it is proved that any person was drunk on such premises, it shall lie on the person charged to prove that the licensed vendor and the persons employed by him took all reasonable steps for preventing drunkenness on such premises.

Penalty for misconduct by licensees, etc.

38. A holder of a license, permit or pass granted under this Regulation, or any person in the employ of such holder and acting on his behalf, who intentionally—

(*a*) fails to produce such license, permit or pass on the demand of any Excise officer or of any other officer duly empowered to make such demand, or

(*b*) save in a case provided for by section 33 contravenes any rule made under section 62, or

(*c*) does any act in breach of any of the conditions of the license, permit or pass not otherwise provided for in this Regulation,

shall be punishable in case (*a*) with fine which may extend to two hundred rupees, and in case (*b*) or case (*c*) with fine which may extend to five hundred rupees.

Penalty for consumption in chemist's shop, etc.

39. (*1*) A chemist, druggist, apothecary or keeper of a dispensary who allows any excisable article which has not been *bonâ fide* medicated for medicinal purposes to be consumed on his business premises by any person not employed in his business, shall be punishable with imprisonment for a term which may extend to three months or with fine which may extend to one thousand rupees, or with both.

(*2*) Any person not employed as aforesaid who consumes any such excisable article on such premises shall be punishable with fine which may extend to two hundred rupees.

Manufacture, sale or possession by one person on account of another.

40. (*1*) Where any excisable article has been manufactured or sold or is possessed by any person on account of any other person, and such other person knows or has reason to believe that such manufacture or sale was, or that such possession is, on his account, the article shall, for the purposes of this Regulation, be deemed to have been manufactured or sold by, or to be in the possession of, such other person.

(*2*) Nothing in sub-section (*1*) shall absolve any person who manufactures, sells or has possession of an excisable article on account of another person from liability to any punishment under this Regulation for the unlawful manufacture, sale or possession of such article.

Attempts to commit offences.

41. Whoever attempts to commit any offence punishable under this Regulation shall be liable to the punishment provided for such offence.

Presumption as to commission of offence in certain cases.

42. In prosecutions under section 33, section 34 and section 35 it shall be presumed, until the contrary is proved, that the accused person has committed an offence punishable under that section in respect of—

(*a*) any excisable article, or

(*b*) any still, utensil, implements or apparatus whatsoever for the manufacture of any excisable article other than *tari*, or

(*c*) any materials which have undergone any process towards the manufacture of an excisable article, or from which an excisable article has been manufactured,

for the possession of which he is unable to account satisfactorily.

Criminal liability of licensee for acts of servants.

43. Where any offence under section 33, section 34, section 35, section 37 or section 38 is committed by any person in the employ and acting on behalf of the holder of a license, permit or pass granted under this Regulation, such holder shall also be punishable as if he had himself committed the same, unless he establishes that all due and reasonable precautions were exercised by him to prevent the commission of such offence:

Provided that no person other than the actual offender shall be punishable under this section with imprisonment except in default of payment of fine

44 If any person, after having been previously convicted of an offence punishable under section 33 section 34, section 35, or section 39, or under the corresponding provisions in any enactment repealed by this Regulation subsequently commits and is convicted of an offence punishable under any of those sections, he shall be liable to twice the punishment which might be imposed on a first conviction under this Regulation — Enhanced punishment after previous conviction

Provided that nothing in this section shall prevent any offence which might otherwise have been tried summarily under Chapter XXII of the
1898 Code of Criminal Procedure 1898 from being so tried

45 Whenever an offence has been committed which is punishable under this Regulation the following things shall be liable to confiscation namely — — Liability of certain things to confiscation

(*1*) any excisable article materials still utensil implement or apparatus in respect of or by means of which such offence has been committed

(*2*) any excisable article lawfully imported transported manufactured had in possession or sold along with or in addition to, any excisable article liable to confiscation under clause (*1*) and

(*3*) any receptacle package or covering in which anything liable to confiscation under clause (*1*) or (*2*) is found and the other contents if any, of such receptacle package or covering and any animal cart vessel, raft or other conveyance used in carrying the same

Provided that if anything specified in clause (*3*) is not the property of the offender, it shall not be confiscated if the owner thereof had no reason to believe that such offence was being or was likely to be committed

46 (*1*) Where in any case tried by him the Magistrate decides that anything is liable to confiscation under section 45, he may either order confiscation or may give the owner of the thing liable to be confiscated an option to pay in lieu of confiscation such fine as the Magistrate thinks fit — Order of confiscation

(*2*) When an offence under this Regulation has been committed, but the offender is not known or cannot be found the case shall be inquired into and determined by the Collector who may order confiscation

Provided that no such order shall be made until the expiration of one month from the date of seizing the thing intended to be confiscated or without hearing any person who may claim any right thereto, and the evidence (if any) which he may produce in support of his claim

Provided further that if the thing in question is liable to speedy and natural decay, or if the Collector is of opinion that the sale would be for the benefit of its owner, the Collector may at any time direct it to be sold; and the provisions of this sub-section shall, as nearly as may be practicable, apply to the net proceeds of such sale.

Power to compound offences.

47. (*1*) The Collector may—

(*a*) accept from any person whose license, permit or pass is liable to be cancelled or suspended under clauses (*a*) and (*b*) of sub-section (*1*) of section 30, or who is reasonably suspected of having committed an offence under section 36, section 37, or section 38, a sum of money not exceeding two hundred rupees in lieu of such cancellation or suspension, or by way of composition for such offence, as the case may be; and

(*b*) in any case in which any property has been seized as liable to confiscation under this Regulation may, at any time before an order of confiscation has been passed by a Magistrate, release the same on payment of the value thereof as estimated by the Collector.

(*2*) On the payment of such sum of money or such value, or both, as the case may be, to the Collector, the accused person, if in custody, shall be discharged, the property seized (if any) shall be released, and no further proceedings shall be taken against such person or property.

Penalty on Excise-officer making vexatious search, seizure, detention or arrest.

48. Any Excise-officer who vexatiously and unnecessarily—

(*a*) enters or searches or causes to be entered or searched any place under colour of exercising any power conferred by this Regulation, or

(*b*) seizes the moveable property of any person on the pretence of seizing or searching for any article liable to confiscation under this Regulation, or

(*c*) searches or arrests any person,

shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both.

Penalty for Excise-officer refusing to do duty.

49. Any Excise-officer, who without lawful excuse, shall cease or refuse to perform, or shall withdraw himself from, the duties of his office, unless expressly allowed to do so in writing by the Collector, or unless he shall have given to his superior officer two months' notice in writing of his intention to do so, or who shall be guilty of cowardice, shall, on conviction before a Magistrate, be punished with imprisonment which may extend to three months, or with fine which may extend to five hundred rupees, or with both.

CHAPTER VIII

DETECTION, INVESTIGATION AND TRIAL OF OFFENCES

50. Whenever any excisable article is manufactured or collected, or any hemp [1]* * * plant is cultivated, on any land in contravention of this Regulation— Landholders and others to give information

(a) all owners and occupiers of such land and their agents, and

(b) all village headmen, village accountants, village watchmen, village police officers, and all officers employed in the collection of revenue or rent of land on the part of Government or the Court of Wards in the villages in which such land is situate,

shall, in the absence of reasonable excuse be bound to give notice of the fact to a Magistrate or to an officer of the Excise, Police or Land Revenue Department as soon as the fact comes to their knowledge

51 The Excise Commissioner, or a Collector or any Excise officer not below such rank as the Chief Commissioner may by notification prescribe, or any Police officer duly empowered in that behalf, may— Power to enter and inspect places of manufacture and sale

(a) enter and inspect, at any time by day or by night, any place in which any licensed manufacturer manufactures or stores any excisable article, and

(b) enter and inspect, at any time within the hours during which sale is permitted and at any other time during which the same may be open, any place in which any excisable article is kept for sale by any person holding a license under this Regulation, and

(c) examine accounts and registers, and examine, test, measure or weigh any materials, stills, utensils, implements, apparatus or excisable article found in such place

52 (*1*) Any officer of the Excise, Police, or Land Revenue Department, subject to such restrictions as the Chief Commissioner may prescribe, and any other person duly empowered, may— Power to arrest without warrant to seize article liable to confiscation and to make searches

(a) arrest without warrant any person found committing an offence punishable under section 33, section 34 or section 35, and

(b) seize and detain any excisable or other article which he has reason to believe to be liable to confiscation under this Regulation or any other law for the time being in force relating to excise-revenue, and

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[1] The words "or coca" were omitted by s 40 and Sch II of the Dangerous Drugs Act, 1930 (II of 1930)

(*c*) detain and search any person upon whom, and any vessel, raft, vehicle, animal, package, receptacle or covering in or upon which he may have reasonable cause to suspect any such article to be.

(*2*) When any person is accused or reasonably suspected of committing an offence under this Regulation, other than an offence under section 33, section 34 or section 35, and on demand of any such officer as aforesaid refuses to give his name and residence or gives a name and residence which such officer has reason to believe is false, he may be arrested by such officer in order that his name and residence may be ascertained.

Power of Magistrate to issue a warrant.

53. If a Magistrate, upon information and after such inquiry (if any) as he thinks necessary, has reason to believe that an offence under section 33, section 34 or section 35 has been, is being, or is likely to be committed, he may issue a warrant—

(*a*) for the search of any place in which he has reason to believe that any excisable article, still, utensil, implement, apparatus or materials which are used for the commission of such offence, or in respect of which such offence has been, is being, or is likely to be committed, are kept or concealed, and

(*b*) for the arrest of any person whom he has reason to believe to have been, to be, or to be likely to be engaged in the commission of any such offence.

Power to search without a warrant.

54. Whenever any Excise-officer not below such rank as the Chief Commissioner may, by notification, prescribe, has reason to believe that an offence under section 33, section 34 or section 35, has been, is being, or is likely to be committed, and that a search-warrant cannot be obtained without affording the offender an opportunity of escape or of concealing evidence of the offence, he may, after recording the grounds of his belief,—

(*a*) at any time by day or night enter and search any place and seize anything found therein which he has reason to believe to be liable to confiscation under this Regulation; and

(*b*) detain and search and, if he thinks proper, arrest any person found in such place whom he has reason to believe to be guilty of such offence as aforesaid.

Powers of Excise-officers in matters of investigation.

55. (*1*) Any Excise-officer not below such rank and within such specified area as the Chief Commissioner may, by notification, prescribe, may, as regards offences under section 33, section 34 and section 35, exercise the powers conferred on an officer in charge of a police-station by the provisions of the Code of Criminal Procedure, 1898. V of 1898

Provided that any such powers shall be subject to such restrictions and modifications (if any) as the Chief Commissioner may by rule prescribe

(2) For the purposes of section 156 of the said Code the area in regard to which an Excise officer is empowered under sub section (1) shall be deemed to be a police station and such officer shall be deemed to be the officer in charge of the station

(3) Any such officer specially empowered in that behalf by the Chief Commissioner may, without reference to a Magistrate and for reasons to be recorded by him in writing stop further proceedings against any person concerned or supposed to be concerned in any offence against this Regulation which he has investigated or which may have been reported to him

Report by investigating officer

56 If on an investigation by an Excise officer empowered under section 55 sub section (1) it appears that there is sufficient evidence to justify the prosecution of the accused the investigating officer unless he proceeds under section 55 sub section (3) shall submit a report (which shall for the purposes of section 190 of the Code of Criminal Procedure 1898 be deemed to be a police report) to a Magistrate having jurisdiction to inquire into or try the case and empowered to take cognizance of offences on police reports

Report by Excise officer

57 Where any Excise officer below the rank of Collector makes any arrest seizure or search under this Regulation he shall within twenty four hours thereafter make a full report of all the particulars of the arrest seizure or search to his immediate official superior and shall unless bail be accepted under section 59 take or send the person arrested or the thing seized with all convenient despatch to a Magistrate for trial or adjudication

Arrests searches, etc how to be made

58 Save as in this Regulation otherwise expressly provided the provisions of the Code of Criminal Procedure 1898 relating to arrests, detentions in custody searches summonses warrants of arrest search warrants, the production of persons arrested and the disposal of things seized shall apply as far as may be to all action taken in these respects under this Regulation

Security for appearance in case of arrest without warrant.

59 (1) The Chief Commissioner may empower any Excise officer to release persons on bail

(2) When a person is arrested under this Regulation otherwise than on warrant by a person or officer who has no authority to release arrested persons on bail he shall be produced before or forwarded to—

(a) the nearest Excise officer who has authority to release arrested persons on bail or

(b) the nearest officer in charge of a police station,

whoever is nearer

(*k*) regulating the grant of expenses to witnesses and to persons charged with offences under this regulation and subsequently released or acquitted; and

(*l*) regulating the power of Excise-officers to summon witnesses from a distance.

Publication of rules and notifications.

63. All rules made under this Regulation shall be published in the local official Gazette, and on such publication shall have effect as if enacted in this Regulation.

Recovery of Government dues.

64. (*1*) The following moneys, namely—

(*a*) all excise-revenue,

(*b*) any loss that may accrue when, in consequence of default, a grant has been taken under management by the Collector or has been re-sold by him, and

(*c*) all amounts due to the Government by any person on account of any contract relating to the Excise-revenue,

may be recovered from the person primarily liable to pay the same, or from his surety (if any), by distress and sale of his moveable property, or by any other process for the recovery of land revenue due from land-holders or from farmers of land or their sureties.

(*2*) When a grant has been taken under management by the Collector, or has been re-sold by him, the Collector may recover, in any manner authorised by sub-section (*1*), any money due to the defaulter by any lessee or assignee.

Government lien on property of defaulters.

65. In the event of default by any person licensed or holding a lease under this Regulation, all his distillery, brewery or warehouse or shop buildings, fittings or apparatus, and all stocks of excisable articles or materials for the manufacture of the same held in or upon any distillery, brewery, warehouse or shop premises, shall be liable to be attached in satisfaction of any claim for excise-revenue, or in respect of any losses incurred by Government through such default, and to be sold to satisfy such claim which shall be a first charge upon the sale-proceeds.

Recovery of dues by lessee under section 18.

66. Any person to whom a lease has been granted in accordance with the provisions of section 18, may, in a case where sub-letting is not forbidden by the terms of his lease, proceed against any person holding under him for the recovery of any money due in respect of such sub-lease or holding as if it were an arrear of rent recoverable under the law for the time being in force with regard to landlord and tenant:

Provided that nothing contained in this section shall affect the right of any such grantee to recover any such money by civil suit.

Power of Local Government to

67. The Chief Commissioner may, by notification, either wholly or partially and subject to such conditions as he may think fit to prescribe,

exempt any excisable article from all or any of the provisions of this Regulation, either throughout the province or in any specified area, or for any specified period or occasion or as regards any specified class of persons. Exempt Excisable articles from the provisions of the Regulation.

68 No suit prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done under this Regulation. Protection to persons acting under Regulation.

69 No suit shall lie against the Secretary of State for India in Council or against any Excise officer in respect of anything done, or alleged to have been done in pursuance of this Regulation unless the suit is instituted within six months from the date of the act complained of. Limitation of suits.

70 [*Repeal of enactments.*] *Rep Act XII of 1927.*

THE SCHEDULE

Rep Act XII of 1927.

REGULATION No IV of 1921

[The Ajmer Land and Revenue (Amendment) Regulation, 1921.]

(*Received the assent of the Governor General on the 21st March, 1921, and published in the Gazette of India on the 26th March, 1921.*)

A Regulation further to amend the Ajmer Land and Revenue Regulation, 1877

Whereas it is expedient further to amend the Ajmer Land and
1877 Revenue Regulation 1877, It is hereby enacted as follows —

1 This Regulation may be called the Ajmer Land and Revenue (Amendment) Regulation 1921. Short title.

18 7 2 In section 22 of the Ajmer Land and Revenue Regulation, 1877, after the words "for the improvement of land" and in section 36 of the said Regulation after the words "under the same ... and", the following shall be inserted namely — Amendment of sections 22 and 36 of Reg. II of 1877.

"Provided that the Chief Commissioner may exempt from the operation of the prohibition contained in this section any alienation made to any person who satisfies him that the land is required and will be used for industrial purposes."

CHAPTER V.

DUTIES AND POWERS OF MUNICIPAL AUTHORITIES.

CHAPTER VI.

TRANSACTION OF MUNICIPAL BUSINESS.

The Budget

CHAPTER VII

MUNICIPAL FUND AND PROPERTY

The Municipal Fund

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CHAPTER VIII

TAXATION

Annual Value

Imposition of Taxes

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CHAPTER V.

DUTIES AND POWERS OF MUNICIPAL AUTHORITIES.

The Committee.

CHAPTER VI.

TRANSACTION OF MUNICIPAL BUSINESS.

Meetings.

Drains and Privies

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CHAPTER XIII.

CONTROL.

Control by Commissioner.

Control by Chief Commissioner.

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Bye-Laws and Rules.

Bye-Laws.

Rules.

CHAPTER XV.

SUPPLEMENTARY.

THE SCHEDULE.

REGULATION No. VI of 1925

[Received the assent of the Governor General on the 8th October, 1925, and published in the Gazette of India on the 24th October, 1925.]

A Regulation to make better provision for the administration of municipalities in Ajmer-Merwara.

WHEREAS it is expedient to make better provision for the administration of municipalities in Ajmer-Merwara; It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

1. (*1*) This Regulation may be called the Ajmer-Merwara Municipalities Regulation, 1925. Short title, extent and commencement.

(*2*) It extends to the province of Ajmer-Merwara.

(*3*) It shall come into force on such date[1] as the Chief Commissioner may, by notification, appoint in this behalf.

2. The Regulations mentioned in the Schedule are hereby repealed to the extent specified in the fourth column thereof: Repeal.

Provided that—

(*i*) all municipalities constituted, Municipal Committees established, limits defined, appointments, rules, bye-laws and orders made, notifications and notices issued, taxes, tolls, rates and fees imposed or assessed, contracts entered into and suits instituted under the said Regulations or under any enactment thereby repealed shall, so far as may be, be deemed to have been respectively constituted, established, defined, made, issued, imposed or assessed, entered into and instituted under this Regulation;

(*ii*) all property, and all rights of whatever kind used, enjoyed or possessed by, and all interests of whatever kind owned by, or vested in, or held in trust by, or for, a Municipal Committee as constituted under the said Regulations, and all liabilities legally subsisting against such Committee shall pass to the Committee constituted for the municipality concerned under this Regulation.

[1] The 1st January 1926 *see* Gazette of India, 1925, Pt. II-A, p. 373.

Definitions. **3.** In this Regulation, unless there is something repugnant in the subject or context,—

(*1*) "building" means a house, hut, shed or other roofed structure, for whatsoever purpose and of whatsoever material constructed, and every part thereof, and includes a wall and a well, but does not include a tent or other such portable and merely temporary shelter; and "part of a building" includes any wall, under-ground room or passage, verandah, fixed platform, plinth, stair-case or door-step attached to, or within the compound of, an existing building or constructed on ground which is to be the site or compound of a projected building;

(*2*) "bye-law" means a bye-law made at a special meeting of a Committee in exercise of a power conferred by this Regulation;

(*3*) "Committee" means a Municipal Committee constituted under this Regulation and includes, in any case when a power is expressed as being conferred or a duty as being imposed on a Committee, a sub-committee appointed by a Committee and any member, officer or servant of a Committee authorised or required by or under this Regulation to exercise the power or perform the duty;

(*4*) "compound" means land, whether enclosed or not, which is the appurtenance of a building or the common appurtenance of several buildings;

(*5*) "drain" includes a sewer, pipe, ditch, channel or any other device for carrying off sullage, sewage, polluted water, rain water or sub-soil water together with pail depôts, traps, sinks, cisterns, flush tanks, and other fittings appertaining thereto;

(*6*) "election court" means the Commissioner or other person or tribunal appointed under sub-section (*1*) of section 36 for the disposal of election petitions;

(*7*) "explosive" and "petroleum" have the meanings assigned to those words in the Indian Explosives Act, 1884, and the Indian Petroleum Act, 1899, respectively; IV of 1884. VIII of 1899.

(*8*) "infectious or contagious disease" includes cholera, leprosy, enteric fever, small-pox, tuberculosis, diphtheria, plague, influenza and any other epidemic, endemic or infectious disease which the Chief Commissioner may by notification declare to be an infectious or contagious disease for the purposes of this Regulation:

(9) "inhabitant", in relation to a municipality or other local area, means any person ordinarily residing or carrying on business, or owning or occupying immoveable property therein, and, in case of any dispute, means any person declared by the Commissioner to be an inhabitant,

(10) "lodging house" includes a collection of buildings, or a building, or part of a building, used for the accommodation of pilgrims or travellers,

(11) "member" means a member of a Committee,

(12) "municipality" means any local area declared by or under this Regulation to be a municipality,

(13) "notification" means a notification published in the official Gazette,

(14) "occupier" includes an owner in actual occupation of his own land or building, and any person for the time being paying or liable to pay to the owner of any land or building the rent or any portion of the rent payable in respect thereof, and, in Chapter VIII, includes a hotel keeper, a lodging house keeper, and any owner whose premises are let to more than one tenant,

(15) "officer", in relation to a Committee, means a person holding an office created or continued by or under this Regulation but does not include a member as such,

(16) "owner" includes the person for the time being receiving the rent of any land or building, whether on his own account or as agent or trustee for any person or society or for any religious or charitable purpose or who would so receive the same if the land or building were let to a tenant

(17) "public place" means a place in a municipality, not being private property, which is open to the use or enjoyment of the site thereof been levelled, paved, metalled, channel or not,

(18) "public street" means any street in a municipality which—

(i) has with the consent, express or implied, of the owner of the site thereof been levelled paved, metalled, Channelled, sewered or repaired out of municipal or other public funds, or

(ii) under the provisions of this Regulation becomes, or is declared by the Committee to be, a public street,

(19) "rule" means a rule made in exercise of a power conferred by this Regulation,

(*20*) "servant", in relation to a Committee, means any person in the pay and service of the Committee;

(*21*) "street" means any road, bridge, foot way, lane, square, court, alley or passage in a municipality along which the public or any portion of the public has a right to pass and includes, on either side, the drains or gutters and the land up to the defined boundary of any abutting property, notwithstanding the projection over such land of any verandah or other superstructure;

(*22*) "vehicle" includes a bicycle, tricycle and motor car, and every other wheeled conveyance which is used or is capable of being used on a public street;

(*23*) "water-works" includes all lakes, tanks, streams, cisterns, springs, pumps, wells, reservoirs, aqueducts, cuts, sluices, mains, pipes, culverts, engines, hydrants, standpipes, conduits, and all machinery, lands, buildings, bridges, and things for supplying or used for supplying water; and

(*24*) where a power is expressed as being conferred on any authority to require a person to do one thing or to do another thing, the authority may, in its discretion, require the person to do either thing or, if the nature of the case permits, both of the things, or may give the person the option of doing whichever of the things he chooses.

CHAPTER II.

MUNICIPAL AREAS.

Declaration of municipalities.

4. (*1*) The Chief Commissioner may, by notification,—

(*a*) declare any local area to be a municipality;

(*b*) define the limits of any municipality;

(*c*) include or exclude any area in or from any municipality; or

(*d*) declare that any municipality shall cease to be a municipality:

Provided that no such notification shall be issued in respect of a local area which comprises or contains the whole or any part of a military cantonment without the previous sanction of the Governor General in Council.

(*2*) The Chief Commissioner shall publish a draft of the proposed notification in the official Gazette and shall cause it, together with a translation in Hindi and Urdu, to be posted up in the court house of the Commissioner and in one or more conspicuous places within or adjacent to the local area concerned, together with a notice stating that

the draft will be taken into consideration after the expiry of six weeks from the date of publication.

(3) The Commissioner shall certify to the Chief Commissioner the date on which the draft and the notice have been made public under sub-section (2), and the date so certified shall, for the purposes of this section, be deemed to be the date of publication.

(4) The Chief Commissioner shall, before issuing the notification, consider any objection or suggestion which he receives in writing from any person in respect of the draft within the said period of six weeks.

Effect of including area in a municipality.

5. When, by reason of a notification under section 4, any local area is included in a municipality, such area shall thereby become subject to this Regulation and to all notifications, rules, bye-laws, orders, directions, issued or made thereunder and in force throughout the municipality, save in so far as the Chief Commissioner may otherwise, by notification, direct.

Effect of excluding area from a municipality.

6. (1) When, by reason of a notification under section 4, any municipality ceases to be a municipality, then if the local area comprised therein is immediately placed under the control of some other local authority the municipal fund and property vesting in the Committee shall vest in, and the liabilities of the Committee shall be transferred to, such other local authority, or, if the local area is not immediately placed under the control of another local authority, such fund and property shall vest in His Majesty and the liabilities of the Committee shall be transferred to the Secretary of State in Council.

(2) When, by reason of a notification under section 4, any local area forming part of a municipality is excluded from the municipality, then, if the local area is immediately placed under the control of some other local authority, such portion of the municipal fund and property vesting in the Committee and such portion of the liabilities of the Committee as the Chief Commissioner may direct shall be transferred to that other local authority, or if the local area is not immediately placed under the control of any other local authority, such portion of the municipal fund and property vesting in the Committee shall vest in His Majesty, and such portion of the liabilities of the Committee shall be transferred to the Secretary of State in Council, as the Chief Commissioner may direct.

(3) All property vested in His Majesty under this section shall be applied under the orders of the Chief Commissioner, in the first place, to discharging the liabilities imposed on the Secretary of State in Council and in the second place, for the promotion of the safety, health, welfare or convenience of the inhabitants of the local area which has ceased to be, or, as the case may be, to be part of, a municipality.

CHAPTER III.

MUNICIPAL AUTHORITIES, OFFICERS AND SERVANTS.

The Committee.

Constitution of Committees.

7. In every municipality there shall be a Municipal Committee consisting of not less than three members, and every such Committee shall be a body corporate by the name of the Municipal Committee of the place by reference to which the municipality is known, having perpetual succession and a common seal and the power of acquiring, holding and transferring property, moveable or immoveable, and of contracting, and shall, by the said name, sue and be sued.

Composition of Committees.

8. (*1*) Every Committee shall consist of—

(1) (*a*) such number of members nominated by the Chief Commissioner, or

(*b*) such number of elected members, or

(*c*) such number of nominated and such number of elected members,

as the Chief Commissioner may by notification direct; and,

(2) where a person who is not a member of the Committee is elected or nominated as Chairman, the person so elected or nominated:

Provided that, where a Committee is to consist partly of elected and partly of nominated members,—

(*i*) the members nominated under sub-clause (*c*) of clause (1) shall not exceed in number one-fourth of the total number of members as prescribed by the Chief Commissioner under that clause;

(*ii*) such number only of members shall be so nominated as is necessary, in the opinion of the Chief Commissioner, to secure the adequate representation of minorities;

(*iii*) any vacancies due to failure to elect the full number of elected members may be filled up by nomination by the Chief Commissioner.

(*2*) The Chief Commissioner may appoint persons as expert advisers to a Committee; and persons so appointed shall have a right to receive notices of meetings thereof and to address such meetings, but not to propose resolutions or vote thereat.

(3) Every election and nomination and every vacancy in the membership of a Committee shall be notified by the Chief Commissioner in the official Gazette

The Members

9. (*1*) Save as hereinafter provided in this section, the term of office of an elected or nominated member shall be three years, and shall commence from the date of the notification of his election, or nomination, as the case may be, or from such later date, if any, as may be specified therein or when the election or nomination has been notified before the vacancy has occurred from the date on which the vacancy occurs Term of office of members.

(2) The term of office of a member elected upon an election being declared void, or elected or nominated to fill a casual vacancy occurring by reason of death, resignation, removal or otherwise, shall commence from the date of the notification of his election or nomination, as the case may be, or from such later date, if any, as may be specified therein, and shall be the period for which the person whose election has been declared void or the member whose place he fills, as the case may be, would, at such date, have been entitled, in the ordinary course of events, to retain office if the election had not been declared void, or the vacancy had not occurred

(3) Notwithstanding anything hereinbefore contained, the Chief Commissioner may, at any time, for the purpose of effecting any change in the composition of a Committee, specify by notification a date on which the members or any of them shall cease to hold office, and, in such case, the period of office of the members concerned shall be extended or curtailed, as the case may be, so as to expire on the said date.

(*4*) A person ceasing to be a member by reason of the expiry of his term of office shall, if otherwise qualified, be eligible for re-election or re-nomination.

10. (*1*) A member (other than the Chairman or a member nominated *ex-officio*) wishing to resign his office may forward his written resignation through the Chairman to the Commissioner. Resignation of members.

(2) When the acceptance of the resignation by the Commissioner has been communicated to the Committee, the member shall be deemed to have vacated his seat.

11. (*1*) The Chief Commissioner may, by notification, remove any member— Powers of the Chief Commissioner to remove members.

(*a*) if he is an undischarged insolvent;

(*b*) if he has been convicted of any such offence or subjected by a Criminal Court to any such order as implies, in the

opinion of the Chief Commissioner, a defect of character which unfits him to be a member;

(*c*) if he has been declared by notification to be disqualified for employment in, or has been dismissed from, the public service, for any reason which implies, in the opinion of the Chief Commissioner, a defect of character which unfits him to be a member;

(*d*) if he has absented himself for more than three consecutive months from the meetings of the Committee and is unable to explain such absence to the satisfaction of the Committee;

(*e*) if his continuance in office is, in the opinion of the Chief Commissioner, undesirable or dangerous to the public peace or order;

(*f*) if, in the opinion of the Chief Commissioner, he has flagrantly abused his position as a member; or

(*g*) in the case of an elected member, if he has, since his election, become subject to any disqualification which, if it had existed at the time of his election, would have rendered him ineligible for election, or if it appears that he was at the time of his election subject to any such disqualification.

(*2*) (*a*) A member removed under clause (*a*) of sub-section (*1*) shall not be eligible for further election or nomination until he has obtained his discharge.

(*b*) A member removed under clause (*d*) of sub-section (*1*) shall be eligible for election or nomination if otherwise qualified.

(*c*) A member removed under clause (*f*) of sub-section (*1*) shall not be so eligible for a period of three years from the date of his removal.

(*d*) A member removed under any other provision of sub-section (*1*) shall not be so eligible until he is declared by the Chief Commissioner to be no longer ineligible.

Filling of [illegible] in [illegible]ttee.

12. (*1*) Vacancies on a Committee occurring by reason of the normal expiration of the term of office of elected members shall be filled at ordinary elections.

(*2*) A vacancy occurring by reason of the death, resignation, removal, or voidance of the election, of an elected member, shall be filled at a casual election:

Provided that, where the term of office of the vacating member would, in the ordinary course of events, have determined within six months of the occurrence of the vacancy, the Committee may direct that the vacancy shall be left unfilled until the next ordinary elections.

(3) In the case of a casual vacancy in the office of a nominated member, the Chief Commissioner may nominate another member in his place

The Chairman and Vice-Chairmen

13. (1) Save as hereinafter provided, the Chairman of every Committee shall be elected by the Committee at a special meeting and shall be a person who is or is qualified for election as a member of the Committee Appointment of Chairman.

Provided that no salaried servant of Government other than a Government Treasurer shall be elected Chairman, save with the approval of the Chief Commissioner which shall only be granted for special reasons

(2) A vacancy in the office of Chairman shall be filled, in the case of a new municipality, within ten days of the formation of the Committee, and, in the case of any other municipality, within ten days, or where the vacancy is a casual vacancy, within fifteen days, of the occurrence of the vacancy

(3) The Chief Commissioner may, for special reasons, by notification direct that the provisions of sub-section (1) shall not apply in the case of any municipality specified in the notification, and shall himself nominate such person as he thinks fit to be the Chairman of the Committee in any municipality so specified

(4) Where the Committee fails to elect a Chairman in the manner prescribed by sub-sections (1) and (2), the Chief Commissioner may nominate the Chairman

Explanation—For the purpose of sub section (1), the expression "salaried servant of Government" includes a person in receipt of a salary from Government notwithstanding that he is not a full time servant of Government, but does not include a retired servant of Government in receipt of a pension

14. Every Committee shall, at a special meeting, elect one or two of its members to be the Vice-Chairman or Vice-Chairmen, and may by resolution regulate the precedence of the Vice-Chairmen. Election of Vice Chairman

15. (1) (a) The term of office of a Chairman, not being a Chairman nominated under sub-section (3) of section 13, who, at the time of his election or nomination as such, is a member, shall be the residue of the term of his office as member Term of office of Chairman and Vice Chairman.

(b) The term of office of a Chairman, not being a Chairman nominated as aforesaid, who, at the time of his election or nomination as such, is not a member, shall be three years, or, where such Chairman is elected or nominated to fill a casual vacancy in the office of Chairman, the residue of the term of office of the person whose place he is elected or nominated to fill.

(*c*) The term of office of a Chairman nominated under sub-section (*3*) of section 13 shall continue during the pleasure of the authority nominating him:

Provided that, where a notification under that sub-section ceases to have effect and the Committee becomes entitled to elect its Chairman, the Chairman holding office by reason of his nomination by the Chief Commissioner under that sub-section shall cease to hold office from the date of the election of a Chairman by the Committee.

(*2*) The term of office of a Vice-Chairman shall be one year from the date of his election as such or the residue of his term of office as a member of the Committee, whichever is less.

(*3*) A Chairman or Vice-Chairman whose term of office has expired shall, if otherwise qualified, be eligible for re-appointment as such.

Resignation or removal of Chairman or Vice-Chairman.

16. (*1*) A Chairman, not being a Chairman appointed *ex-officio* under sub-section (*3*) or sub-section (*4*) of section 13, may resign his office, and, on his resignation being accepted by the Committee, his office shall be deemed vacant.

(*2*) A Vice-Chairman may resign his office, and, on his resignation being communicated to the Committee, his office shall be deemed vacant.

(*3*) Any Chairman or Vice-Chairman may be removed from office by the Chief Commissioner on the ground of habitual failure to perform his duty, and shall not be eligible for re-appointment until so declared by the Chief Commissioner:

Provided that, when the Chief Commissioner proposes to take action under this sub-section, he shall give the Chairman or Vice-Chairman concerned an opportunity of explaining the conduct on account of which it is proposed to remove him and shall, in the event of taking such action, place on record the reasons therefor.

(*4*) A Chairman in respect of whom an order has been made under sub-section (*1*) of section 11, removing him from the Committee as member, shall thereupon cease to be Chairman.

Sub-Committees.

Appointment of Sub-Committees.

17. (*1*) A Committee may—

(*a*) by bye-law establish such sub-committees as it thinks fit for the purpose of exercising such powers, performing such duties or discharging such functions, as may be delegated to them respectively by the Committee under the provisions of this Regulation;

(b) by resolution appoint such members, with one of them as convenor, as it thinks fit, for a period not exceeding one year, to any sub-committee so established, and

(c) by resolution remove any member or convenor appointed under clause (b)

(2) Notwithstanding anything contained in this Regulation, a Committee may, by a resolution supported by not less than one-half of the total number of members for the time being holding office, appoint as members of a sub-committee persons, not being members of the Committee, who, in the opinion of the Committee, possess special qualifications for serving on such sub-committee

Provided that the number of persons so appointed shall not exceed one-third of the number of members of the sub-committee

Joint Committees

18. A Committee may concur with any other Committee, or with any District Board, or, with the previous sanction of the Chief Commissioner, with any cantonment authority, or with more than one such Committee, Board or authority, in appointing out of their respective bodies a Joint Committee for any purpose in which they are jointly interested, and in delegating to any such Joint Committee any power which might be exercised by either or any of the Committees, Boards or authorities concerned, in appointing a Chairman of such a Joint Committee, and in framing regulations as to the proceedings of any such Joint Committee, and as to the conduct of correspondence relating to such purposes Joint Committees.

Officers and Servants

19. (1) Every Committee shall, at a special meeting, appoint a member, or any other person approved by the Commissioner, to be Secretary of the Committee Appointment of Secretary.

(2) When a member is appointed Secretary, he shall receive no remuneration in respect of his services When any other person is so appointed, the Committee may, with the previous sanction of the Commissioner, assign to him such pay as it thinks fit

(3) The Committee may appoint an officiating Secretary and an additional or Assistant Secretary.

20. (1) A Committee may, by special resolution, appoint an Executive Officer to whom all other officers and all servants of the Committee shall be subordinate Power of Committee to appoint Executive Officer.

(2) The appointment, and the salary and other conditions attaching thereto, shall be subject to the approval of the Chief Commissioner

Appointment of Health Officer and Engineers.

21. (*1*) A Committee may, by special resolution, and, if so required by the Chief Commissioner, appoint a Health Officer, an Engineer or a Water-works or Electrical Engineer.

(*2*) Each such appointment, and the salary and other conditions attaching thereto, shall be subject to the approval of the Chief Commissioner.

(*3*) If a Committee, when required by the Chief Commissioner to do so, fails within a reasonable time to appoint any such officer as aforesaid, the Chief Commissioner may appoint him, and any officer so appointed shall be deemed to have been appointed by the Committee.

Punishment and dismissal of Executive Officer, Secretary, Health Officer and Engineers.

22. (*1*) A Committee may, by special resolution and not otherwise, punish, dismiss or remove its Executive Officer, Secretary, Health Officer, Engineer or Water-works or Electrical Engineer.

(*2*) A resolution punishing, dismissing or removing any of the aforesaid officers shall be communicated to him and shall not take effect until the expiration of fifteen days from the date when the communication was served on him, or, in the event of an appeal being filed by him under sub-section (*3*), until the appeal is decided.

(*3*) Any of the aforesaid officers may, within fifteen days of the receipt of notice of a resolution of punishment, dismissal or removal, appeal to the Chief Commissioner through the Commissioner, and the Chief Commissioner shall thereupon either allow, disallow or vary the punishment, dismissal or removal.

(*4*) On receiving an appeal under sub-section (*3*), the Chief Commissioner may, if he thinks fit, suspend the officer concerned pending the decision of the appeal.

(*5*) The Chief Commissioner shall have authority to require the dismissal or removal of any of the aforesaid officers in case of proved incompetency.

Employment of other officers and servants.

23. Subject to the provisions of this Regulation and the rules and bye-laws, a Committee may employ such other officers and servants as may be necessary or proper for the efficient execution of its duties, and may assign to such officers and servants such pay as it thinks fit.

Pensions, leave allowances and provident funds.

24. (*1*) If an officer or servant of a Committee is a Government official, the Committee may—

(*a*) if his services are wholly lent to it, contribute to his pension, gratuity and leave allowances in accordance with any rule, or general or special order, made by the Secretary of State in Council or the Governor General in Council in force for the time being: or

(*b*) if he devotes only a part of his time to the performance of duties on behalf of the Committee, contribute to his pension, gratuity and leave allowances in such proportion as may be determined by the Chief Commissioner

(*2*) In the case of an officer or servant of a Committee who is not a Government official, the Committee may, subject to such conditions as the Chief Commissioner may by rule prescribe, grant him leave, absentee or acting allowance, and—

(*a*) if his pay is less than ten rupees a month grant him a gratuity on retirement, or

(*b*) establish and maintain a provident or annuity fund and compel him to contribute thereto, or

(*c*) where such a fund has not been established or where such a fund has been established, but he has been contributing thereto for less than the whole of his service, grant him a pension or gratuity, or purchase or arrange for an annuity for him on his retirement

(*3*) With the sanction of the Chief Commissioner, a Committee may grant a compassionate gratuity or grant or arrange for the purchase of an annuity to any officer or servant injured otherwise than by reason of his own default in the execution of his duty, or where such injury results in his death, to the widow, children, or other relatives dependent on him

(*4*) Where an officer or servant dies in circumstances other than those referred to in sub-section (*3*), the Committee may, with the sanction of the Chief Commissioner, grant a compassionate gratuity to the widow, children or other relatives dependent on him

(*5*) A pension, gratuity or annuity shall not exceed the sum to which, under any rule, or general or special order, made by the Secretary of State in Council or the Governor General in Council, such officer or servant or his family would be entitled if the service had been service under Government.

(*6*) All orders in connection with the matters mentioned in this section and all payments from a municipal fund on that account made prior to the date on which this Regulation comes into force, which could have been validly made if this Regulation had then been in force, shall be deemed to have been validly made hereunder.

Pensions, etc, in case of service partly under Government and partly

25. (*1*) If a person serving or having served under a Committee has been or is transferred from or to the service of Government or is partly employed by the Government and partly by the Committee, the Committee shall contribute to his pension and leave allowances to such

under Committee.

extent as may be required by any rules made by the Secretary of State in Council or the Governor General in Council in this behalf.

(*2*) The Committee shall not, save with the consent of the Chief Commissioner, dispense with the services of any person partly employed as aforesaid without giving the Chief Commissioner six months' previous notice.

Notice before discharge or resignation of municipal officers.

26. (*1*) In the absence of a written contract to the contrary, every officer or servant of a Committee shall be entitled to one month's notice before discharge or to one month's wages in lieu thereof, unless he is discharged during a period of probation or for misconduct or was engaged for a specified term and discharged at the end of it.

(*2*) If any officer or servant of a Committee, in the absence of a written contract authorising him so to do, and without reasonable cause resigns his employment or absents himself from his duties without giving one month's notice to the Committee, he shall be liable to forfeit a sum not exceeding one month's wages out of any wages due to him.

(*3*) If any sweeper employed by a Committee, in the absence of a written contract authorising him so to do, and without reasonable cause, resigns his employment or absents himself from his duties without giving one month's notice to the Committee, or neglects or refuses to perform his duties or any of them, he shall be punishable with imprisonment which may extend to two months.

(*4*) The Chief Commissioner may, by notification, direct that, on and from such date, as may be specified in the notification, the provisions of sub-section (*3*) shall apply to any specified class of servants, employed by a Committee, whose functions intimately concern the public health or safety.

General Provisions respecting status of members, officers and servants.

Penalty on member, officer or servant being interested in contract made with the Committee.

27. (*1*) If any member, officer or servant of a Committee is, without the permission of the Commissioner previously granted in writing, interested directly or indirectly, otherwise than as a shareholder (other than a director) in any incorporated company, in any contract made with the Committee, or with any sub-committee or Joint Committee of which he is a member, officer or servant, he shall be deemed to have committed an offence punishable under section 168 of the Indian Penal Code. XLV of

(*2*) A person shall not be deemed to have an interest in a contract within the meaning of sub-section (*1*) by reason only of his having a share or interest in—

(*a*) any lease, sale or purchase of immoveable property or any agreement for the same; or

(*b*) any agreement for the loan of money or any security for the payment of money only or

(*c*) any newspaper in which any advertisement relating to the affairs of the Committee is inserted, or

(*d*) the sale to the Committee of any articles in which he regularly trades or the purchase from the Committee of any articles to a value in either case not exceeding one thousand rupees in the aggregate in any year during the period of the contract

but no such person as aforesaid shall take part in any proceedings of the Committee sub committee or Joint Committee relating to any such contract

28 No suit shall be maintainable against any officer or servant of a Committee, or any member or any person acting under the direction of such officer servant or member in respect of anything in good faith done under this Regulation or any rule or bye-law made thereunder — Liability of members and officers.

Provided that every such person shall be liable for the loss waste or misapplication of any money or other property belonging to the Committee, if such loss waste or misapplication is a direct consequence of neglect or misconduct in the discharge of his duties under this Regulation, and a suit for compensation for the same may be instituted against him by the Committee with the sanction of the Commissioner or by the Secretary of State for India in Council

29 Every member and every municipal officer and servant shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code — Municipal officers to be public servants

CHAPTER IV

ELECTIONS

Qualifications of Electors

30 (*1*) A person shall not be deemed to be an elector for any purpose of this Regulation or of any rule unless he is enrolled as an elector — Qualifications of electors

(*2*) The following persons shall, if not subject to any of the disqualifications specified in sub-section (3) be entitled to be enrolled as electors namely.—

(*a*) every person who in any year is on such date as is prescribed by rule in this behalf (hereinafter in this section referred

(*e*) is interested in a subsisting contract made with, or any work being done for, the Committee except as a shareholder (other than a director) in an incorporated company, or

(*f*) is disqualified under any other provision of this Regulation:

Provided that—

(*i*) in cases (*a*) and (*b*) the disqualification may be removed by an order of the Chief Commissioner in this behalf;

(*ii*) a person shall not be deemed to have an interest in a contract or work within the meaning of clause (*e*) by reason only of his having a share or interest in—

(*a*) any lease, sale or purchase of immoveable property or any agreement for the same; or

(*b*) any agreement for the loan of money or any security for the payment of money only; or

(*c*) any news-paper in which any advertisement relating to the affairs of the Committee is inserted; or

(*d*) the sale to the Committee of any articles in which he regularly trades, or the purchase from the Committee of any articles to a value in either case not exceeding one thousand rupees in the aggregate in any year during the period of the contract or work.

Election Petitions.

Power to question election.

33. (*1*) The election of any person as a member may be questioned by an election petition on the ground—

(*a*) that such person has committed during or in respect of the election any corrupt practice as hereinafter defined:

(*b*) that such person was declared to be elected by reason of the improper rejection or admission of one or more votes or for any other reason was not duly elected by a majority of lawful votes;

(*c*) that such person was disqualified for election under sub-section (*2*) of section 32.

(*2*) The election of any person as a member shall not be questioned—

(*a*) on the ground that the name of any person qualified to vote has been omitted from, or the name of any person not qualified to vote has been inserted in, the electoral roll or rolls.

(*b*) on the ground of any non compliance with this Regulation or any rule, or of any mistake in the forms required thereby, or of any error, irregularity or informality on the part of the officer or officers charged with carrying out this Regulation or any rule, unless such non-compliance, mistake error irregularity or informality has materially affected the result of the election

34 (*1*) An election petition shall be presented within seven days from the date on which the election was notified and shall specify the ground or grounds on which the election is questioned and shall contain a summary of the circumstances alleged to justify the election being questioned on such grounds

Form and presentation of election petition

(*2*) The petition may be presented by any candidate in whose favour votes have been recorded and who claims in the petition to be declared elected in place of the person whose election is questioned, or by ten or more electors of the municipality

(*3*) The person whose election is questioned and, where the petitioner claims that any other candidate shall be declared elected in place of such person, every unsuccessful candidate who has polled more votes than such candidate, shall be made a respondent to the petition

(*4*) An election petition and any application relating to the hearing of an election petition, may be presented to the Commissioner or to the officer in charge of the sub division within which the municipality concerned is situated

35. Every respondent may give evidence to prove that any person in respect of whom a claim is made that such person be declared elected in his place or in priority to him, should not be declared so elected, in the same manner as if he had presented a petition against the election of such person

Recriminatory proceedings in election disputes

36. (*1*) An election petition shall be heard by the Commissioner, or by such other person or tribunal as may be appointed by rule in this behalf, at some place in the sub-division within which the municipality concerned is situated

Election courts.

(*2*) Every order passed under any provision of this Chapter by an election court other than the Commissioner shall be appealable to the Commissioner within seven days from the date of the order appealed against, and the Commissioner's order on such appeal shall be final

(*3*) Save as provided in sub section (*2*), the order of an election court shall be final

37. (*1*) Save as otherwise provided by this Regulation or by rule, the procedure provided in the Code of Civil Procedure 1908 in regard

Procedure of election courts

any one in whom he is interested, but does not include a promise to vote for or against any particular municipal measure.

Rules relating to Elections.

Conduct of elections and kindred matters.

43. The Chief Commissioner may, by notification, make rules consistent with this Regulation for the purpose of regulating all or any of the following matters, namely:—

(*a*) with reference to section 30, the minimum amounts, salaries or sums qualifying a person to be an elector, and the manner in which the annual value of buildings or lands shall be calculated for the purposes of that section;

(*b*) the qualifications of candidates for election;

(*c*) the preparation and revision of electoral rolls, and the adjudication of claims to be enrolled and objections to enrolment;

(*d*) the nomination of candidates;

(*e*) the dates, time, and manner of holding elections, general or casual;

(*f*) the division of municipalities into wards, or of the inhabitants into classes, or both;

(*g*) the number of representatives proper for each ward or class;

(*h*) any other matter relating to elections or election petitions in respect of which this Regulation makes no provision or insufficient provision and provision is, in the opinion of the Chief Commissioner, necessary.

CHAPTER V.

Duties and Powers of Municipal Authorities.

The Committee.

Duties of the Committee.

44. It shall be the duty of every Committee to make reasonable provision within the municipality for—

(*a*) lighting public streets and public places;

(*b*) watering public streets and public places;

(*c*) cleansing public streets, public places and drains, removing noxious vegetation and abating all public nuisances;

(d) regulating offensive, dangerous and obnoxious trades, callings or practices;

(e) removing, on the ground of public safety, health or convenience, undesirable obstructions and projections in streets or public places;

(f) securing or removing dangerous buildings or places;

(g) acquiring, maintaining, changing and regulating places for the disposal of the dead;

(h) constructing, altering and maintaining public streets, culverts, markets, slaughter-houses latrines, privies, urinals, drains, drainage works and sewerage works;

(i) planting and maintaining trees on road sides and other public places;

(j) providing a sufficient supply of pure and wholesome water where the health of the inhabitants is endangered by the insufficiency or unwholesomeness of the existing supply, guarding from pollution water used for human consumption, and preventing polluted water from being so used;

(k) registering births and deaths;

(l) establishing and maintaining a system of public vaccination;

(m) establishing, maintaining or supporting public hospitals and dispensaries and providing public medical relief;

(n) establishing and maintaining primary schools;

(o) rendering assistance in extinguishing fires and protecting life and property when fires occur;

(p) maintaining and developing the value of property vested in or entrusted to the management of the Committee;

(q) preparing such returns, statements and reports as the Chief Commissioner may require the Committee to submit; and

(r) fulfilling any obligation imposed upon it by law:

Provided that no provision for the purpose described in clause (a) shall be considered reasonable unless it involves an expenditure of at least five per centum of the normal income of the Committee after deduction therefrom of the income from special services.

Discretionary functions of the Committee.

45. (1) A Committee may make provision within the municipality for—

(a) laying out, in areas whether previously built upon or not, new public streets and acquiring land for that purpose and for the construction of buildings and their compounds to abut on such streets;

(*b*) constructing, establishing or maintaining public parks, gardens, libraries, museums, mental hospitals, halls, offices, dharamshalas, rest-houses encamping grounds, poor-houses, dairies, baths, bathing ghats, washing places, drinking fountains, tanks, wells, dams and other works of public utility;

(*c*) reclaiming unhealthy localities;

(*d*) furthering educational objects by measures other than the establishment and maintenance of primary schools;

(*e*) taking a census and granting rewards for information which may tend to secure the correct registration of vital statistics;

(*f*) making a survey;

(*g*) making arrangements for the confinement or destruction of stray dogs;

(*h*) securing or assisting to secure suitable places for the carrying on of any dangerous or offensive trade or manufacture;

(*i*) establishing and maintaining a farm or factory for the disposal of sewage;

(*j*) constructing, subsidizing or guaranteeing tramways, rail roads or other means of locomotion and electric lighting or electric power works;

(*k*) holding fairs and exhibitions; and

(*l*) adopting any measure, other than a measure specified in section 44 or in this sub-section, likely to promote the public safety, health or convenience.

(*2*) A Committee may make provision for the extension beyond the limits of the municipality of the benefits of any municipal undertaking:

Provided that no provision shall be made for the extension of the benefits of a municipal undertaking for the supply of water to any local area which comprises or contains the whole or a portion of a cantonment without the previous sanction of the Governor General in Council.

(*3*) A Committee may also make provision within or beyond the limits of the municipality for the doing of any thing whereon expenditure is declared by the Chief Commissioner, or by the Committee with the sanction of the Chief Commissioner, to be an appropriate charge on the municipal fund.

Delegation of powers of the Committee.

46. (*1*) A Committee may, subject to the provisions of section 59, by bye-laws empower a sub-committee, or the Executive Officer, or the Chairman or a Vice-Chairman, or any member, to exercise and perform, subject to such conditions, restrictions and limitations as may be

imposed on the Committee by or under this Regulation, all or any of the powers and duties conferred or imposed on the Committee by any of the following provisions, namely —

Sections 23 86 102, 103 106, 110, 112, 144 and 145, clauses (*b*) and (*c*) of section 147, sections 152 to 157, sections 159 and 162, sub-section (*1*) of section 169, section 173, clause (*a*) of section 175, sections 176, 179 182 and 196 and sections 202 to 211

(*2*) Bye laws made under sub section (*1*) may, and in the case of powers and duties conferred or imposed upon the Executive Officer shall, provide that any orders passed in the exercise of the powers or performance of the duties so delegated shall, within such time as may be therein prescribed be subject to appeal to, or revision by, the Committee

The Chairman and Vice Chairmen

47 It shall be the duty of the Chairman of a Committee— Duties of the Chairman

(*a*) unless prevented by reasonable cause, to convene and preside at all meetings of the Committee and to control, in accordance with all bye laws made in this behalf, the transaction of business thereat,

(*b*) to watch over the financial, and superintend the executive, administration of the Committee and to bring to the notice of the Committee any defect therein coming to his knowledge,

(*c*) to perform such other duties as are required of or may be imposed upon him by or under this Regulation

48 (*1*) It shall be the duty of the senior Vice Chairman present— Duties of the Vice-Chairman.

(*a*) to perform during the temporary absence of the Chairman or during a vacancy in the office of Chairman, the duties of the Chairman described in section 47,

(*b*) to perform such other duties as are required of or may be imposed upon him by or under this Regulation

(*2*) A Vice Chairman performing the duties of the Chairman in the circumstances stated in clause (*a*) of sub section (*1*) shall have all the powers conferred on the Chairman by or under this Regulation

Emergency Powers

49 (*1*) In cases of emergency, the Executive Officer, or if there is no Executive Officer, the Chairman of a Committee may direct the execution of any work or the doing of any act which the Committee is Extraordinary powers of Executive Officer, or

Chairman in cases of emergency.

empowered to execute or do, and the immediate execution or doing of which is, in his opinion, necessary for the preservation of valuable property or for the safety of the public, and may direct that the expense of executing such work or doing such act shall be paid from the municipal fund:

Provided that every direction given under this section shall be reported to the Committee at its next following meeting.

(2) The Executive Officer or Chairman shall not act under this section in contravention of any express order of the Committee.

(3) The Executive Officer or, if there is no Executive Officer, the Chairman may prohibit, until the matter has been considered by the Committee, the doing of any act which is in his opinion undesirable in the public interests, provided that the act is one which the Committee has power to prohibit.

(4) No direction given under this section shall be questioned in any Court on the ground that the case was not one of emergency.

CHAPTER VI.

Transaction of Municipal Business.

Meetings.

Times for holding meetings.

50. (1) Every Committee shall meet for the transaction of business at least once in every month at such time as may be fixed by the bye-laws.

(2) The Chairman may, whenever he thinks fit, and shall, on a requisition made in writing in this behalf by not less than one-fifth of the members, convene an ordinary or a special meeting at any other time.

Ordinary and special meetings.

51. (1) Every meeting of a Committee shall be either ordinary or special.

(2) Any business may be transacted at an ordinary meeting unless required by this Regulation or the rules to be transacted at a special meeting.

Quorum.

52. (1) The quorum necessary for the transaction of business at a special meeting of a Committee shall be one-half of the number of members actually serving at the time, but shall not be less than three.

(2) The quorum necessary for the transaction of business at an ordinary meeting of a Committee shall be one-third of the number of members of the Committee serving at the time, but shall not be less than three:

Provided that, if at any ordinary or special meeting a quorum is not present, the Chairman shall adjourn the meeting to such other day as he may think fit, and the business which would have been brought before the original meeting if there had been a quorum present shall be brought before, and transacted at, the adjourned meeting whether there be a quorum present thereat or not

53. At every meeting of a Committee the Chairman, if present, shall preside If the Chairman is not present, his place shall be taken by the senior Vice-Chairman, who is present If there be no Chairman or Vice-Chairman present, such one of their members as the members present may elect shall preside as Chairman. Chairman of meeting.

54. Save as otherwise provided by this Regulation or any rule, all questions which come before any meeting of a Committee shall be decided by a majority of the votes of the members present, the Chairman of the meeting, in case of an equality of votes, having a second or casting vote. Vote of majority decisive.

55. Any meeting of a Committee may, with the consent of a majority of the members present thereat, be adjourned from time to time, but no business shall be discussed at the adjourned meeting other than that left undisposed of at the meeting at which the adjournment took place Adjournments.

56. No resolution of a Committee shall be modified or cancelled within six months after the passing thereof— Cancellation of resolutions.

(*a*) unless previous notice has been given to the members setting forth fully the resolution it is proposed to modify or cancel and the motion or proposition for its modification or cancellation;

(*b*) otherwise than by a resolution supported by not less than one-half of the total number of members serving at the time.

57. (*1*) Minutes of the proceedings at each meeting of a Committee shall be drawn up and recorded in a book to be kept for the purpose, shall be signed by the Chairman of the meeting or of the next ensuing meeting, shall be published in such manner as the Chief Commissioner may direct, and shall, at all reasonable times and without charge, be open to inspection by any inhabitant. Record and publication of proceedings.

(*2*) A copy of every resolution passed at any meeting of a Committee shall, within ten days from the date of the meeting, be forwarded to the Commissioner

58. A Committee may make bye-laws consistent with this Regulation and with the rules to provide for all or any of the following matters, namely — Bye laws for conduct of business.

(*a*) the time and place of its meetings;

(*b*) the manner in which notice of ordinary and special meetings and adjourned meetings shall be given;

(*c*) the conduct of proceedings at meetings and the adjournment of meetings;

(*d*) the custody of the common seal and the purposes for which it shall be used;

(*e*) the procedure of sub-committees appointed under section 17. the filling of casual vacancies therein, the number necessary to form a quorum at meetings thereof, and other matters relating to such sub-committees;

(*f*) the persons by whom receipts may be granted on behalf of the Committee for money received under this Regulation;

(*g*) the appointment, duties, executive powers, leave, suspension and removal of its officers and servants;

(*h*) the right of the Executive Officer to address the Committee or join in its discussions;

(*i*) all other similar matters.

Contracts and Conveyances.

Authority to contract.

59. (*1*) A Committee may, subject to the provisions of this Regulation, delegate to one or more of its members the power of entering on its behalf into any particular contract whereof the value or amount does not exceed two hundred rupees, or into any class of such contracts.

(*2*) No contract by or on behalf of a Committee whereof the value or amount exceeds two hundred rupees shall be entered into until it has been sanctioned at a meeting of the Committee.

Mode of executing contracts and transfer of property.

60. (*1*) Every contract made by or on behalf of a Committee whereof the value or amount exceeds one hundred rupees, shall be in writing, and shall be signed by two members, of whom the Chairman or a Vice-Chairman shall be one, and countersigned by the Secretary or Executive Officer:

Provided that, when the power of entering into any contract on behalf of the Committee has been delegated under section 59, the signature or signatures of the member or members to whom the power has been delegated shall be sufficient.

(*2*) Every transfer of immoveable property belonging to a Committee other than a lease for a term not exceeding one year shall be made by an instrument in writing, executed by the Chairman or a Vice-Chairman, and by at least two other members of the Committee, whose execution thereof shall be attested by the Secretary or Executive Officer.

(*3*) No contract or transfer executed otherwise than in conformity with the provisions of this section shall be binding on a Committee.

The Budget.

Budget

61. (*1*) Every Committee shall have prepared, and laid before it, at a meeting to be held in every year before such date as is fixed by rule in this behalf, a complete account of the actual and expected receipts and expenditure for the year ending on the thirty-first day of March next following such date, together with a budget estimate of the income and expenditure of the Committee for the year commencing on the first day of April next following.

(*2*) The Committee shall at such meeting decide upon the appropriations and the ways and means contained in the budget estimate and, by special resolution, sanction a budget, which shall be submitted to the Chief Commissioner through the Commissioner for information.

(*3*) The Committee may vary or alter from time to time as circumstances may render desirable, by special resolution, the budget sanctioned under sub-section (*2*).

Revised budget.

62. As soon as may be after the first day of October, a revised budget for the year shall be framed and such revised budget shall, so far as may be, be subject to all the provisions applicable to a budget made under section 61.

Minimum closing balance.

63. In framing a budget the Committee shall provide for the maintenance of such minimum closing balance (if any) as the Chief Commissioner may, by order in writing, prescribe.

Special provision for certain municipalities.

64. Where, in the opinion of the Chief Commissioner, the condition of indebtedness of a Committee is such as to make the control of Government over its budget desirable, or such control is, in the case of a municipality to which the system of election is not applied, desirable for any other reason, the Chief Commissioner may, notwithstanding anything hereinbefore contained, by order in writing, direct that the budget of the Committee shall be subject to the sanction of the Commissioner, and that the power to vary or alter the budget under sub-section (3) of section 61 shall be subject to such conditions as he may impose by the order.

Expenditure not to exceed budget estimates.

65. (*1*) Where a budget has been passed, the Committee shall not incur any expenditure under any of the heads of the budget, other than a head providing for the refund of taxes, in excess of the amount passed under that head without making provision for such excess by the variation or alteration of the budget.

(2) Where any expenditure under any head providing for the refund of taxes is incurred in excess of the amount passed under that head, provision shall be made without delay for such expenditure by the variation or alteration of the budget.

CHAPTER VII.

MUNICIPAL FUND AND PROPERTY.

The Municipal Fund.

Constitution of municipal fund.

66. (*1*) There shall be formed for each municipality a municipal fund, and there shall be placed to the credit thereof—

(*a*) all sums received by, or on behalf of, the Committee under this Regulation or otherwise;

(*b*) all fines and other sums recovered from persons convicted of offences committed within the municipality under this Regulation or any rule or bye-law or under section 34 of the Police Act, 1861, or under the Prevention of Cruelty to Animals Act, 1890, or under the Hackney Carriage Act, 1879, or any rule made thereunder or under any other Act, or rule made thereunder, in which provision is made for the credit of such sums to the municipal fund; V o XI c XIV

(*c*) the balance (if any) standing at the credit of the municipal fund of the municipality at the commencement of this Regulation.

(*2*) Nothing in sub-section (*1*) shall affect any obligations of a Committee arising from a trust legally imposed upon or accepted by it.

Application of municipal d.

67. (*1*) Every Committee shall set apart and apply out of the municipal fund,—

(*a*) *first*, such sum as may be required for the fulfilment of any liabilities or obligations arising from trusts legally imposed upon, or accepted by, the Committee;

(*b*) *secondly*, such sum as may be required for the payment of any amounts falling due on any loan legally contracted by it or by the Municipal Committee which it succeeded;

(*c*) *thirdly*, such sum as may be required to meet the charges of the municipal establishment, including such subscriptions and contributions as are referred to in sections 24 and 25;

(d) *fourthly*, such sum as may be required to pay the expenses of pauper lunatics sent to public asylums or mental hospitals from the municipality which ought, in the opinion of the Chief Commissioner, to be paid by the Committee, the expenses incurred in auditing the accounts of the Committee, and such portion of the cost of any public expenditure by the Governor General in Council or the Chief Commissioner as may be held by the Chief Commissioner to be equitably payable by the Committee in return for services rendered to it.

(2) Subject to the charges specified in sub-section (1) and to such rules as may be made with respect to the priority to be given to the several duties of the Committee, the municipal fund shall be applicable to the payment of expenses incurred for the purposes of any object which is to be or may be undertaken by the Committee under section 44 or section 45.

68. (1) In places where there is a Government treasury or sub-treasury or a bank to which the Government treasury business has been made over, the municipal fund shall be kept in such treasury, sub-treasury or bank. Custody of municipal fund.

(2) In places where there is no such treasury, sub-treasury or bank, the municipal fund may be deposited with any banker, or person acting as a banker, who has given such security for the safe custody and repayment on demand of the fund so deposited as the Chief Commissioner may in each case determine.

69. (1) A Committee may, with the previous sanction of the Chief Commissioner, deposit a portion of the municipal fund in a savings bank, or invest it in any security specified in section 20 of the Indian Trusts Act, 1882, or in such other manner as the Chief Commissioner may approve in this behalf. Investment of municipal fund.

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(2) The income resulting from such deposits or securities and the proceeds of the sale of such securities shall be credited to the municipal fund.

Municipal Property.

70. (1) Subject to any special reservation made or to any special conditions imposed by the Chief Commissioner, all property of the nature hereinafter in this section specified and situated within, or, where expressly so provided, beyond any municipality, shall vest in and be under the control of the Committee, and with all other property which has already vested or may hereafter vest in the Committee, shall be Property vested in Committee.

held and applied by it for the purposes of this Regulation, that is to say:—

(*a*) all public town-walls, gates, markets, slaughter-houses, manure and night-soil depôts, and public works and public buildings of every description (whether within or beyond the municipality) which have been constructed or are maintained out of the municipal fund;

(*b*) all public streams, springs and works (whether within or beyond the municipality) for the supply, storage or distribution of water for public purposes within the municipality, and all bridges, buildings, engines, materials and things connected therewith or appertaining thereto, and any adjacent land (not being private property) appertaining to any public tank or well;

(*c*) all public sewers and drains, and all sewers, drains, culverts and water-courses in, alongside, or under any street, and all works, materials and things appertaining thereto;

(*d*) all dust, dirt, dung, ashes, refuse, animal-matter or filth or rubbish of any kind or dead bodies of animals, collected by the Committee from the streets, houses, privies, sewers, cesspools or elsewhere or deposited in places fixed by the Committee under this Regulation;

(*e*) all public lamps, lamp-posts and apparatus connected therewith or appertaining thereto;

(*f*) all land or other property, within or beyond the municipality, transferred to the Committee by the Government or acquired by gift, purchase, or otherwise for local public purposes;

(*g*) all public streets, not being open spaces or lands owned by Government, and the pavements, stones and other materials thereof, and also all trees, erections, materials, implements and things provided for such streets.

(*2*) Where any immoveable property is transferred otherwise than by sale by the Government to a Committee for public purposes, it shall be deemed to be a condition of such transfer, unless specially provided to the contrary, that should the property be at any time resumed by the Government, the compensation payable therefor shall, notwithstanding anything to the contrary in the Land Acquisition Act, 1894, in no case exceed the amount, if any, paid to the Government for the transfer, together with the cost or the present value, whichever shall be less, of I of 1894.

any buildings erected or other works executed on the land by the Committee.

Management of public institutions.

71. (*1*) The management, control and administration of every public institution maintained out of a municipal fund shall vest in the Committee.

(*2*) When any public institution has been placed under the direction, management and control of a Committee, all property, endowments and funds belonging thereto shall be held by the Committee in trust for the purposes to which such property, endowments and funds were lawfully applicable at the time when the institution was so placed

Provided that the extent of the independent authority of the Committee in respect of any such institution may be defined by the Chief Commissioner:

Provided also that nothing in this section shall be held to prevent the vesting of any trust property in the Treasurer of Charitable Endowments
0. under the Charitable Endowments Act, 1890

Acquisition of land.

72. When any land, whether within or without the limits of a municipality, is required for the purposes of this Regulation, the Chief Commissioner may, at the request of the Committee, proceed to acquire it under the provisions of the Land Acquisition Act, 1894; and, on payment by the Committee of the compensation awarded under that Act, and of any other charges incurred in acquiring the land, the land shall vest in the Committee.

Explanation.—When any land is required for a new street or for the improvement of an existing street, the Committee may proceed to acquire, in addition to the land to be occupied by the street, the land necessary for the sites of the buildings to be erected on both sides of the street, and such land shall be deemed to be required for the purposes of this Regulation.

Transfer of property vesting in Committee.

73. (*1*) A Committee may, subject to rules made in this behalf, transfer by sale, mortgage, lease, gift, exchange or otherwise any property vested in it, not being property held by it on any trust the terms of which are inconsistent with the right so to transfer.

(*2*) Notwithstanding anything contained in sub-section (*1*), the Committee may, with the sanction of the Chief Commissioner, transfer to His Majesty any property vesting in the Committee under section 70 or section 71, but not so as to affect any trust or public rights subject to which the property is held.

Saving of Act IX of 1914.

74. Nothing in this Regulation shall affect the Local Authorities
4. Loans Act, 1914.

CHAPTER VIII.

TAXATION.

Annual Value.

Definition of "annual value."

75. For the purposes of this Chapter, "annual value" means—

(*a*) in the case of land, the gross annual rent at which it may reasonably be expected to let from year to year:

Provided that, in the case of land assessed to land-revenue or of which the land-revenue has been wholly or in part released, compounded for, redeemed or assigned, the Chief Commissioner may direct that the annual value shall be deemed to be double the amount of the land-revenue for the time being assessed on the land, whether such assessment is leviable or not, or, when the land-revenue has been wholly or in part compounded for or redeemed, double the amount which, but for such composition or redemption, would have been leviable;

(*b*) in the case of any house or building, the gross annual rent at which such house or building, together with its appurtenances and any furniture that may be let for use or enjoyment therewith, may reasonably be expected to let from year to year, subject to the following deductions:—

(*i*) such deduction not exceeding one-fifth of the gross annual rent as the Committee of the municipality in which the assessment is made may consider a reasonable allowance on account of the furniture let with the house or building;

(*ii*) a deduction of one-tenth for the cost of repairs and for all other expenses necessary to maintain the building in a state to command such gross annual rent, such deduction being calculated on the balance of the gross annual rent after the deduction (if any) under sub-clause (*i*);

(*iii*) where land is let with a building, such deduction, not exceeding one-fifth of the gross annual rent, as the Committee may consider reasonable on account of the actual expenditure, if any, annually incurred by the owner on the upkeep of the land in a state to command such gross annual rent;

(c) in the case of any house or building the gross annual rent of which cannot be determined under clause (b), one-twentieth of the sum obtained by adding the estimated present cost of erecting the building, less such amount as the Committee may deem reasonable to be deducted on account of depreciation (if any), to the estimated market value of the site and any land appertaining to the house or building

Provided that—

(i) in the calculation of the annual value of any premises no account shall be taken of any machinery thereon,

(ii) where, in the opinion of the Committee, the annual value of any building would, by reason of exceptional circumstances, be excessive, if calculated in accordance with the foregoing provisions of this section, the Committee may fix the annual value at such less amount as appears to it equitable

Explanation I —For the purposes of clause (b) it is immaterial whether the house or building, and the furniture and the land let for use or enjoyment therewith, are let by the same contract or by different contracts and if by different contracts, whether such contracts are made simultaneously or at different times

Explanation II —The expression "gross annual rent" does not include any tax payable by the owner in respect of which the owner and tenant have agreed that it shall be paid by the tenant

Imposition of Taxes

76 Subject to any general or special orders of the Governor General in Council and to any rules made in this behalf a Committee may, for the purposes of, and in the manner directed by, this Regulation, impose in the whole or any part of the municipality any of the following taxes namely — **Taxes which may be imposed.**

(a) A tax, payable by the owner, on buildings or lands, or both—

(i) not exceeding one tenth of the annual value, or

(ii) not exceeding one anna per square yard of the ground area, or

(iii) not exceeding rupees three per running foot of frontage in streets and bazars

Provided that, in the case of lands or buildings occupied by tenants in perpetuity, the tax shall be payable by such tenants

(b) A tax on persons practising any profession or art or carrying on any trade or calling in the municipality

(*c*) A tax, payable by the owner, on all or any vehicles, or animals used for riding, driving, draught or burden, or dogs, when the vehicles, animals and dogs, are kept within the municipality.

(*d*) A tax of the nature of a toll on vehicles and animals used as aforesaid entering the municipality:

Provided that—

(*1*) no such tax shall be levied in respect of any animal or vehicle for which a tax is paid under clause (*c*);

(*2*) any owner of such animal or vehicle may compound for the tax by paying the corresponding tax under clause (*c*) if such tax is in force in the municipality.

(*e*) A tax, payable by the employer, on menial domestic servants.

(*f*) An octroi on animals or goods, or both, brought within the octroi limits for use or consumption therein.

(*g*) A tax payable by the occupier of any building in respect of which the Committee has, in exercise of any power conferred by this Regulation, undertaken the house-scavenging.

(*h*) For the purpose of constructing or maintaining works for the supply of water to the municipality or paying the principal or interest, or both principal and interest, of any loan raised for the construction of such works, a tax, payable by the occupier or, if there be no occupier, by the owner, on the annual value of such buildings or lands as are so situated that their occupiers can benefit by the works; in determining the rate of such tax regard may be had, among other considerations, to the distance of the buildings or lands from the nearest point at which the water is deliverable from the works to their level:

Provided that the total net proceeds of the tax, together with the estimated income for water supplied from the works to privately-owned premises, shall not exceed the amount required for such purposes.

(*i*) A terminal tax on animals or goods, or both, imported into or exported from the municipality.

(*j*) Any other tax:

Provided that the sanction of the Governor General in Council shall be obtained to the proposals for the imposition of any tax under clause (*i*) or clause (*j*).

77 (1) Every Committee shall, before imposing any tax, observe the procedure prescribed in this section

Procedure in imposing taxes.

(2) The Committee shall, by resolution passed at a special meeting, frame proposals specifying the following particulars —

(a) the nature of the tax (having regard to the provisions of section 76),

(b) the persons or class of persons on whom, and the description of property or other taxable thing or circumstance in respect of which the tax is to be levied,

(c) the amount or rate of the tax,

(d) any other matter which may be prescribed by rule in this behalf,

and shall publish the proposals in such manner as may be prescribed by rule in that behalf, together with a notice inviting objections thereto

(3) The Committee shall at a special meeting take into consideration any objection to the proposals submitted within thirty days of the publication of the said notice by any inhabitant of the municipality

(4) If any material alteration is made in the proposals the modified proposals shall be published and further objections considered in the manner prescribed in sub sections (2) and (3)

(5) If no objections are received within the time prescribed or if all objections so received after having been duly considered are held insufficient, the Committee may confirm the resolution proposing the tax and shall thereupon forward a copy thereof to the Chief Commissioner for publication in the official Gazette

Provided that, in the case of any tax to which the previous sanction of the Governor General in Council is required under section 76 or in any other case in which the Commissioner, by reason of the indebtedness of the Committee or the absence of elected members thereon by order in writing so directs, the resolution shall, instead of being confirmed, be communicated to the Chief Commissioner

(6) When a resolution proposing a tax to which the previous sanction of the Governor General in Council is required is communicated to the Chief Commissioner under sub section (5), he shall forward the proposals to the Governor General in Council, together with his own opinion thereon in the case of any other proposals communicated to him under the proviso to that sub section before confirmation he may sanction or refuse to sanction the same or may return them to the Committee for further consideration

(7) Where a resolution has after confirmation been forwarded to, or any proposals have been sanctioned by, the Chief Commissioner under

sub-section (*6*), or where any proposals forwarded to the Governor General in Council have been sanctioned by him, the Chief Commissioner shall notify the same in the official Gazette, together with any rules which he may make under section 247 in respect of the tax.

(*8*) The notification issued under sub-section (*7*) shall specify a date not less than three months from the date of publication thereof on which the tax shall, and before which it may not, come into force:

Provided that a tax leviable by the year shall come into force on the first day of January or on the first day of April, or on the first day of July or on the first day of October in any year, and if it comes into force on any day other than the first day of the year for which it is leviable, shall be leviable by the quarter till the first day of such year next ensuing.

(*9*) The procedure prescribed in the preceding sub-sections shall apply to any proposals to increase the amount or rate, or extend the effect, of any tax.

(*10*) A notification under sub-section (*7*) of the imposition of a tax under this Regulation shall be conclusive evidence that the tax has been imposed in accordance with the provisions of this Regulation.

Power of Chief Commissioner to suspend tax.

78. Notwithstanding anything contained in section 76, if at any time it appears to the Chief Commissioner, on complaint made, that any tax imposed under this Chapter is unfair in its incidence or that the levy thereof or of any part thereof is injurious to the interests of the general public, he may require the Committee to take within a specified period measures to remove the objection; and, if within that period, the requirement is not complied with to the satisfaction of the Chief Commissioner, he may by notification suspend the levy of the tax or of such part thereof, as the case may be, until the objection has been removed.

Property Taxes.

Preparation of assessment list.

79. Every Committee shall cause an assessment list of all buildings and lands on which any tax is imposed to be prepared, containing—

(*a*) the name of the street or *muhalla* in which the property is situated;

(*b*) a description of the property sufficient for the identification thereof;

(*c*) the names of the owner and occupier, if known;

(*d*) the annual value and the particulars on which the annual value is based; and

(*e*) the amount of the tax assessed thereon by the Committee.

80 When the assessment list has been completed, the Committee shall give public notice thereof, and of the place where the list or a copy thereof may be inspected and every person claiming to be either the owner or the occupier of property included in the list and any authorised agent of such person, shall be at liberty to inspect the list and to make extracts therefrom without charge

Publication and completion of assessment list.

81 (*1*) The Committee shall at the time of the publication of the assessment list give public notice of a time not less than one month thereafter when it will proceed to revise the valuation and assessment, and in all cases in which any immoveable property is for the first time assessed or the assessment thereof is increased it shall also give notice thereof to the owner or occupier of the property

Disposal of objections.

(*2*) Every objection to a valuation or assessment shall be in writing setting forth the grounds on which the valuation or assessment is disputed and shall be left at the office of the Committee before the time fixed in the notice

(*3*) The Committee or such sub committee or officer of the Committee or of the Government as it may by special resolution appoint in this behalf shall consider every objection duly made and shall after giving the objector an opportunity of being heard either in person or by duly authorised agent in support thereof dispose of it and make such consequential amendment (if any) as is necessary in the assessment list

82 (*1*) When the Committee or the sub committee or officer appointed in that behalf under sub section (*3*) of section 81 has disposed of the objections and made the necessary amendments in the assessment list in the manner prescribed in that sub section the Chairman or two members of the sub committee or the officer aforesaid, as the case may be shall authenticate it and at the same time certify that no valid objection has been made to the valuation and assessment contained in the list except in the cases in which amendments have been entered therein and, subject to such amendments as may thereafter be duly made the tax so assessed shall be deemed to be the tax for the year commencing on the first day of January or first day of April next ensuing as the Committee may determine and, in the case of a tax imposed for the first time for the period between the date on which the tax comes into force and such first day of January or April as the case may be

Authentication of list

(*2*) The list when so authenticated shall be deposited in the office of the Committee, and shall there be open during office hours to all owners or occupiers of property comprised therein or the authorised agents of such persons, and a public notice that it is so open shall forthwith be published

Further amendments of asssment list.

83. (*1*) The Committee may, after giving notice to any person affected by the amendment, of a time, not less than one month from the date of service, at which the amendment is to be made, at any time amend the list by inserting the name of any person whose name ought to have been or ought to be inserted, or by inserting any property which ought to have been or ought to be inserted, or by altering the assessment on any property which has been erroneously valued or assessed through fraud, accident or mistake, whether on the part of the Committee or of the assessee, or, where, in the case of a tax payable by the occupier, a change in the tenancy has taken place, by altering the name of the occupier.

(*2*) Any person interested in any such amendment may tender an objection to the Committee in writing before the time fixed in the notice, and shall be allowed an opportunity of being heard in support of the same in person, or by authorised agent, as he may think fit.

Annual revision of list.

84. It shall be in the discretion of the Committee to prepare a new assessment list every year, or to adopt the valuation and assessment contained in the list for any year, with such alterations as may in particular cases be deemed necessary, as the valuation and assessment for the year following, giving to persons affected by such alterations the same notice of the valuation and assessment as if a new assessment list had been prepared.

Notice to be given to the Committee of all transfers of title of persons primarily liable to payment of property tax.

85. (*1*) Whenever the title to or over any building or land of any person primarily liable for the payment of property taxes on such property is transferred, the transferor shall, within three months of the registration of the deed of transfer if it is registered, or if it is not registered, within three months of its execution, or if no instrument is executed, within three months of the actual transfer, give notice in writing of such transfer to the Committee.

(*2*) Every person primarily liable for the payment of a tax on any immoveable property who transfers his title to or over such property without giving notice of such transfer to the Committee as aforesaid, shall, in addition to any other liability which he incurs through such neglect, continue liable for the payment of all such taxes from time to time payable in respect of the said property until he gives such notice, or until the transfer shall have been recorded in the Committee's books.

(*3*) Nothing in this section shall be held to diminish the liability of the transferee for the said taxes or to affect the prior claim of the Committee for the recovery of the taxes due on any immoveable property.

Remission of tax on unoccupied

86. (*1*) When any property assessed to a tax under clause (*a*) or clause (*g*) of section 76, which is payable by the year or by instalments,

has remained unoccupied and unproductive of rent throughout the year or the period in respect of which any instalment is payable, the Committee shall remit the amount of the tax or of the instalment, as the case may be

Immoveable property

Provided that no such remission shall be granted unless notice in writing of the circumstances under which it is claimed has been given to the Committee within the first month after the expiry of the period in respect of which it is so claimed

(2) When any such property as aforesaid—

(a) has not been occupied or productive of rent for any period of not less than sixty consecutive days, or

(b) consists of separate tenements, one or more of which has or have not been occupied or productive of rent for any such period as aforesaid, or

(c) is wholly or in greater part demolished or destroyed by fire or otherwise,

the Committee may remit such portion (if any) of the tax or instalment as it may think equitable

(3) The burden of proving the facts entitling any person to claim relief under this section shall lie upon him

(4) For the purposes of this section neither the presence of a caretaker nor the mere retention in an otherwise unoccupied dwelling house of the furniture habitually used in it shall constitute occupation of the house

(5) For the purposes of this section a house shall be deemed to be productive of rent if let to a tenant who has a continuing right of occupation thereof, whether it is actually occupied by such tenant or not

Recovery of property taxes payable by owner

87 (1) When any sum is due on account of a tax payable under this Regulation in respect of any immoveable property by the owner thereof, the Committee shall cause a bill for the amount, stating the property and the period for which the charge is made to be delivered to the person liable to pay the same

(2) If the bill is not paid within ten days from the delivery thereof, the Committee may cause a notice of demand to be served on the person liable to pay the same and, if he does not, within seven days from the service of the notice, pay the sum due, with any fee leviable for the notice, or show sufficient cause for non payment, the sum due, with the fee shall be deemed to be an arrear of tax

(3) The amount of every such arrear shall, subject to any claim on behalf of the Government, be a first charge on the property in respect of which it is payable, and shall, besides being recoverable in any other

manner provided by this Regulation, be recoverable, on application made in this behalf by the Committee to the Collector, as if the property were an estate assessed to land-revenue and the arrear were an arrear of such revenue due thereon:

Provided that nothing in this sub-section shall authorise the arrest of a defaulter.

(4) If any tax or sum leviable under this Regulation from the owner is recovered from the occupier, such occupier shall, in the absence of any contract to the contrary, be entitled to recover the same from the owner and may deduct the same from the rent then or thereafter due by him to the owner.

Octroi and Terminal Tax.

Power to examine article liable to octroi or terminal tax.

88. Every person bringing or receiving within the octroi or terminal tax limits of a municipality any article on which octroi or terminal tax is payable shall, when required by an officer duly authorised by the Committee in this behalf, and so far as may be necessary for ascertaining the amount of tax chargeable,—

(*a*) permit that officer to inspect, examine, weigh or otherwise deal with the articles; and

(*b*) communicate to that officer any information, and exhibit to him any bill, invoice or document of a like nature which he may possess relating to the article.

Power to search where octroi or terminal tax is leviable.

89. (*1*) If any person bringing or receiving within the octroi or terminal tax limits of a municipality a conveyance or package on which octroi or terminal tax is or is believed to be leviable, refuses, on the demand of an officer authorised by the Committee in this behalf, to permit the officer to inspect, weigh or otherwise examine the contents of the conveyance or package for the purpose of ascertaining whether it contains any articles in respect of which octroi or terminal tax is payable, or refuses to communicate to that officer any information, or to exhibit to him any bill, invoice or document of a like nature, which he may possess relating to the article, or with the intention of defrauding the Committee communicates any such information which is false or exhibits any such bill, invoice or document of a like nature which is false, forged or fraudulent, he shall be punishable with fine which may extend to fifty rupees.

(*2*) Any such person may demand that the conveyance or package or both, as the case may be, shall be taken without unnecessary delay before a member or the Executive Officer or the Secretary or a Magistrate, who shall cause the inspection to be made in his presence.

Penalty for evasion of octroi or terminal tax.

90 If goods passing the octroi or terminal tax boundary of a municipality are liable to the payment of octroi or terminal tax, then every person who, with the intention to defraud the Committee, introduces or attempts to introduce within the said octroi or terminal tax boundary, any such goods upon which payment of the octroi or terminal tax due on such introduction has neither been made nor tendered, or causes or abets such introduction shall be punishable with fine which may extend either to ten times the value of such octroi or terminal tax or to fifty rupees, whichever amount is greater

Summary recovery of octroi or terminal tax and tolls.

91 (*1*) In case of non payment of any octroi or terminal tax or of any toll on demand, the officer empowered to collect the same may seize any article on which the octroi or terminal tax is chargeable or any vehicle or animal on which the toll is chargeable or any part of its burden of sufficient value to satisfy the demand

(*2*) The Committee, after the lapse of five days from the seizure, and after the issue of a proclamation fixing the time and place of sale, may cause any property so seized or so much thereof as may be necessary, to be sold by auction to satisfy the demand and the expenses occasioned by the seizure custody and sale thereof unless the demand and expenses are in the meantime paid

Provided that by order of the Executive Officer or where there is no Executive Officer, of the Chairman or a Vice Chairman articles of a perishable nature which cannot be kept for five days without serious risk of damage may be sold after the lapse of such shorter time as he may, having regard to the nature of the articles think proper

Power to levy joint taxes.

92 If a Committee, with the sanction of the Governor General in Council, has agreed with the cantonment authority of an adjoining cantonment that the same octroi or terminal tax limits shall be established for the municipality and the cantonment and that octroi or terminal tax collections and charges shall be divided between the municipal fund and the cantonment fund, the Committee may fix limits so as to include so much both of the municipality and of the cantonment as it thinks necessary and shall have the same powers of collecting octroi or terminal tax on animals or goods brought within such limits and the provisions of this Regulation relating to octroi or terminal tax shall apply in the same way, as if the said limits were wholly comprised in the municipality

Appeals against Taxation, etc

Appeals against taxation.

93 (*1*) An appeal against the assessment or levy of, or against the refusal to refund, any tax under this Regulation shall lie to the Commissioner or to such other officer as may be empowered by the Chief Commissioner in this behalf

(*2*) If, on the hearing of an appeal under this section, any question as to the liability to or the principle of assessment of a tax arises, on which the officer hearing the appeal entertains reasonable doubt, he may, either of his own motion or on the application of any person interested, draw up a statement of the facts of the case and the point on which doubt is entertained, and refer the statement with his own opinion on the point for the decision of the Chief Commissioner.

(*3*) On a reference being made under sub-section (*2*), the subsequent proceedings in the case shall be, as nearly as may be, in conformity with the rules relating to references to the High Court contained in section 113 and Order XLVI in the First Schedule to the Code of Civil Procedure, 1908.

(*4*) In every appeal the costs shall be in the discretion of the officer deciding the appeal.

(*5*) Costs awarded under this section to a Committee shall be recoverable by the Committee as though they were arrears of a tax due from the appellant.

(*6*) If a Committee fails to pay any costs awarded to an appellant within ten days after the date of the order for payment thereof, the officer awarding the costs may order the person having the custody of the balance of the municipal fund to pay the amount.

Limitation.

94. No appeal shall be entertained under section 93 unless the appellant has paid all other municipal taxes due from him to the Committee up to the date of such appeal, and unless it has been preferred—

(*a*) where it refers to a tax on any land or building, within one month of the publication of the notice prescribed by section 82 or section 84 or of the date of the final order under section 83, as the case may be;

(*b*) where it refers to any other tax, within one month of the date on which a demand was made therefor:

Provided that an appeal may be entertained after the expiry of the period referred to in clause (*a*) or clause (*b*), as the case may be, if the appellant satisfies the officer before whom the appeal is preferred that he had sufficient cause for not presenting the appeal within that period.

General Provisions as to Levy of Taxes.

Tax not invalid for defect of form.

95. No assessment and no charge or demand of any tax made under this Regulation shall be impeached or affected by reason of any mistake in the name, residence, place of business or occupation of any person liable to pay the tax, or in the description of any property or thing liable to the tax, or of any mistake in the amount of assessment or tax, or by

reason of any clerical error or other defect of form, and it shall be enough in any such tax on property or any assessment of value for the purpose of any such tax if the property taxed or assessed is so described as to be generally known, and it shall not be necessary to name the owner or occupier thereof

Remissions and exemptions

96 (*1*) A Committee may exempt, in whole or in part, for any period not exceeding one year, from the payment of any tax, any person who by reason of poverty is, in its opinion, unable to pay the same, and may renew such exemption as often as may be necessary

(*2*) A Committee, by a resolution passed at a special meeting, may—

(*a*) provide that all or any persons may be allowed to compound for any tax imposed under clause (*f*) of section 76, or

(*b*) subject to the control of the Chief Commissioner,

(*i*) abolish suspend or reduce in amount any tax imposed under section 76 or

(*ii*) exempt in whole or in part from the payment of any such tax any person or class of persons or any property or description of property

(*3*) The Chief Commissioner may by order in writing exempt in whole or in part from the payment of any such tax any person or class of persons or any property or description of property

Duty of furnishing true information regarding liability to municipal taxation

97 (*1*) Every person shall on the demand of an officer duly authorised by the Committee in this behalf furnish such information as may be necessary in order to ascertain whether such person is liable to pay any municipal tax and every hotel or lodging house keeper or secretary of a residential club shall also on demand made as aforesaid furnish a list of all persons residing in such hotel lodging house or club

(*2*) If any person so called upon to furnish such information omits to do so or furnishes information which is untrue he shall be punishable with fine which may extend to one hundred rupees

Taxes when payable

98 Subject to the provisions of sub section (*3*) of section 77 and of sub section (*1*) of section 82 any tax imposed under this Chapter and payable periodically shall be payable on such dates and in such instalments (if any) as the Committee may direct

Taxation not to be questioned except under this Regulation.

99 No objection shall be taken to any valuation or assessment, nor shall the liability of any person to be assessed or taxed be questioned in any other manner or by any other authority than is provided in this Regulation

Refunds

100 No refund of any tax shall be claimable by any person otherwise than in accordance with the provisions of this Regulation and the rules

CHAPTER IX.

PUBLIC HEALTH AND SAFETY.

Water-Supply.

Provision of water.

101. (*1*) In a municipality in which a water tax is levied under clause (*h*) of section 76, the Committee shall, and in any other case a Committee may, provide a supply of drinking water within the municipality; and shall cause such tanks, reservoirs, engines, pipes, taps and other works as may be necessary for the said purpose to be constructed and maintained, whether within or without the municipality; and shall erect sufficient standpipes or other conveniences for the gratuitous supply of water to the public.

(*2*) The Committee shall, as far as possible, make adequate provision to ensure that such supply is continuous throughout the year, and that the water is at all times pure and fit for human consumption.

Supply of water for domestic purposes.

102. (*1*) A Committee may, on application by the owner of any building, arrange for supplying water from the nearest main to the same for domestic purposes in such quantities as it thinks reasonable, and may, whenever it considers it necessary, limit the amount of water to be so supplied.

(*2*) If a water tax is levied on the building, no additional charge shall be payable in respect of such supply; but for water supplied in excess of the quantity to which such supply is under sub-section (*1*) limited, or, where no water tax is so levied, for all the water supplied under sub-section (*1*), payment shall be made by the owner or occupier at such rate as may be prescribed by bye-law.

Explanation.—A supply of water for domestic purposes shall not be deemed to include a supply—

(*a*) for animals or for washing vehicles where such animals or vehicles are kept for sale or hire,

(*b*) for any trade, manufacture or business,

(*c*) for fountains, swimming baths, or for any ornamental or mechanical purpose,

(*d*) for gardens or for purposes of irrigation,

(*e*) for watering roads or paths,

(*f*) for building purposes.

Supply of water for other than

103. (*1*) A Committee may supply water for any purpose other than a domestic purpose on receiving a written application specifying the

purpose for which such supply is required and the quantity likely to be consumed

domestic purposes.

(2) For all water supplied under sub section (1) payment shall be made at the same rate as is prescribed under sub section (2) of section 102

(3) The Committee may withdraw such supply at any time if it should appear necessary to do so in order to maintain a sufficient supply of water for domestic purposes

104 (1) Where an application under section 102 or section 103 has been received all necessary communication pipes and fittings shall be supplied by the Committee and the work of laying and applying such communication pipes and fittings shall be executed by municipal agency under the orders of the Committee but the cost of making any such connection and of all communication pipes and fittings so supplied and of all works so executed shall be paid by the owner or the person making such application The Committee may if it thinks fit provide a meter and charge rent for the same or may require the owner or applicant to provide a meter of such size material and description as it may approve

Making connections with municipal water works

(2) Notwithstanding anything in sub section (1) the Committee may require any owner or person applying for a supply of water to provide all communication pipes and fittings and to carry out at his own cost under its supervision and inspection all the work of laying and applying such communication pipes and fittings

105 Any owner or occupier of any building or land in or on which water supplied under this Regulation is misused from negligence or other circumstances under his control or is used without permission in excess of the quantity fixed under section 102 or section 103 or in which the pipes mains or other works are out of repair to such an extent as to cause waste of water shall if he has knowledge thereof, be bound to give notice of the same to such officer as the Committee may appoint in this behalf

Obligation of owner or occupier to give notice of waste of water

106 If any person whose premises are supplied with water neglects to pay the water tax, or any sum payable under section 102 or section 103 when due or to give notice as provided in section 105, or wilfully or negligently misuses or causes waste of water, the Committee may, after giving him such notice as it deems reasonable in the circumstances, cut off the supply of water from the said premises

Cutting-off of supply to premises

Protection from Fire

107 For the prevention and extinction of fire, a Committee may establish and maintain a fire brigade and may provide any implements, machinery or means of communicating intelligence which the Committee thinks necessary for the efficient discharge by the brigade of its duties

Establishment and maintenance of fire brigade

Power of fire brigade and other persons for suppression of fires.

108. (*1*) On the occasion of a fire in a municipality, any Magistrate, the Secretary or the Executive Officer or any member of the Committee, any member of a fire brigade maintained by the Committee then and there directing the operations of men belonging to the brigade, and, if directed so to do by a Magistrate, or the Secretary or the Executive Officer or a member of the Committee, any police-officer above the rank of constable, may—

(*a*) remove or order the removal of any person who by his presence interferes with or impedes the operations for extinguishing the fire or for saving life or property;

(*b*) close any street or passage in or near which any fire is burning;

(*c*) for the purpose of extinguishing the fire, break into or through or pull down any premises, or cause any premises to be broken into or through or to be pulled down or used for the passage of hoses or other appliances;

(*d*) cause mains and pipes to be shut off so as to give greater pressure of water in or near the place where the fire has occurred;

(*e*) call on the persons in charge of any fire-engine to render such assistance as may be possible; and

(*f*) generally, take such measures as may appear necessary for the preservation of life or property.

(*2*) When any Government building is endangered by such a fire, the officer of the Public Works Department for the time being in charge of the building may exercise the powers conferred on a Magistrate by sub-section (*1*).

(*3*) No person shall be liable to pay damages for any act done by him in good faith under this section.

(*4*) Any damage done in the exercise of a power conferred or a duty imposed by this section shall be deemed to be damage by fire within the meaning of any policy of insurance against fire.

(*5*) The powers conferred by this section shall be subject to any conditions or restrictions which may be imposed by rule.

Drains and Privies.

Provision of drains, privies, etc.

109. (*1*) A Committee may, by notice, require the owner of any building or land in the municipality to provide, move or remove any drain, privy, latrine, urinal, cesspool or other receptacle for filth or refuse, or provide any additional drains, privies, latrines, urinals, cesspools or other receptacles as aforesaid which should in its opinion be

provided for the building or land, in such manner and of such pattern as the Committee may direct.

(2) A Committee may, by notice, require any person employing more than twenty workmen or labourers in the municipality to provide such latrines and urinals as it thinks fit, and to cause the same to be kept in proper order and to be daily cleansed:

Provided that nothing in this sub-section shall apply to any factory regulated by the Indian Factories Act, 1911. [XII of 1911]

(3) A Committee may, by notice, require the owner or occupier of any building or land in the municipality to have any privy, latrine or urinal provided for the same shut out by a sufficient roof and wall or fence from the view of persons passing by or dwelling in the neighbourhood, or to remove or alter, as the Committee may direct, any door or trapdoor of a privy, latrine or urinal opening on to any street or drain.

110. (1) A Committee may, by notice, require the owner or occupier of any building or land in the municipality to demolish, repair, alter or put in good order any drain, privy, latrine, urinal, cesspool or receptacle for any filth or refuse, or to close any drain, privy, latrine, urinal or cesspool belonging thereto. [Repair and closing of drains, privies, latrines, urinals and cesspools.]

(2) A Committee may, by notice, require any person who constructs in the municipality any new drain, privy, latrine, urinal, cesspool or receptacle for filth or refuse without its permission in writing or contrary to its directions or to the provisions of this Regulation or of any bye-law, or who constructs, rebuilds or opens any drain, privy, latrine, urinal, cesspool or receptacle for filth or refuse which it has ordered to be demolished or closed or not to be made, to demolish the drain, privy, latrine, urinal, cesspool or receptacle, or to make such alteration therein as it thinks fit.

111. A Committee may, by notice, require any person who, without its permission in writing, newly erects or rebuilds any building over any sewer, drain, culvert, water-course or water-pipe vested in the Committee to pull down or otherwise deal with the same as it may think fit. [Unauthorised buildings over drains, etc.]

112. (1) A Committee may, by notice, require the owner or occupier of any land on which any drain, privy, latrine, urinal, cesspool or other receptacle for filth or refuse for the time being exists within fifty feet of any spring, well, tank, reservoir or other source from which water is or may be derived for public use, to remove or close the same within one week from the service of such notice. [Removal of latrines, etc., near any source of water-supply.]

(2) Whoever, without the permission of the Committee, keeps or uses, as the case may be, for a longer time than one week after notice under this section any drain, privy, latrine, urinal, cesspool or other receptacle for filth or refuse within fifty feet of any spring, well, tank, reservoir

or other source from which water is or may be derived for public use, shall be punishable with fine which may extend to twenty rupees, and with a further fine not exceeding five rupees for each day during which the offence is continued after the lapse of the period allowed for compliance therewith.

Improperly discharging sewage.

113. Whoever, without the permission of the Committee, causes or knowingly or negligently allows the water of any sink, sewer or cesspool, or any other offensive matter, to flow, drain or be put upon any street or public place, or into any sewer or drain not set apart for the purpose, shall be punishable with fine which may extend to twenty rupees.

Making or altering drains without authority.

114. Whoever, without the permission of the Committee, makes or causes to be made, or alters or causes to be altered, any drain leading into any sewer or drain vested in a Committee, shall be punishable with fine which may extend to fifty rupees.

Laying and connecting Pipes, Sewers and the like.

Power to lay or carry wires, pipes, drains or sewers, through private land.

115. A Committee may carry any cable, wire, pipe, drain, sewer or channel of any kind—

(*a*) for the purpose of establishing telephonic or other similar communication or of carrying out, establishing or maintaining any system of water supply, lighting, drainage or sewerage, through, across, under or over any road or street, or any place laid out or intended as a road or street, or after giving reasonable notice in writing to the owner or occupier, into, through, across, under or over any land or building, or up the side of any building, situated within the municipality, or

(*b*) for the purpose of supplying water or of the introduction or distribution of outfall of water or for the removal or outfall of sewage, after giving reasonable notice in writing to the owner or occupier, into, through, across, under or over any land or building, or up the side of any building, situated outside the municipality;

and may at all times do all acts and things which may be necessary or expedient for repairing or maintaining any such cable, wire, pipe, drain, sewer or channel, as the case may be, in an effective state for the purpose for which the same may be used or intended to be used:

Provided that no nuisance more than is necessarily caused by the proper execution of the work shall be created by any such operation:

Provided, further, that reasonable compensation shall be paid to the owner or occupier for any damage at the time sustained by him and directly occasioned by the carrying out of any such operation.

116 In the event of any cable, wire, pipe, drain, sewer or channel being laid or carried above the surface of any land or through, over or up the side of any building, such cable, wire, pipe, drain, sewer or channel, as the case may be, shall be so laid or carried as to interfere as little as possible with the rights of the owner or occupier to the due enjoyment of such land or building and reasonable compensation shall be paid in respect of any substantial interference with any such right to such enjoyment

Provision as to wires, pipes, drains or sewers laid or carried above surface or ground

117 The Committee shall cause not less than fourteen days' notice in writing to be given to the owner or occupier before commencing any operations such as are referred to in section 115 unless they are commenced, in the exercise of any power conferred by or under any provision of this Regulation by which a shorter period of notice is prescribed

Previous notice to be given before commencing operation

Private Connection with Mains, etc

118 No person shall, without the permission of the Committee at any time make or cause to be made, any connection or communication with any cable wire pipe drain, sewer or channel constructed or maintained by or vested in a Committee, for any purpose whatsoever

Connection with main not to be made without permission of Committee.

119 In any municipality to which the provisions of this section, may by notification be extended by the Chief Commissioner the Committee may, at any time establish any connection or communication from any water main drain or sewer to any premises or may by notice require the owner of any such premises to establish any such connection or communication in such manner and within such time as the Committee by notice in that behalf, may prescribe, at the cost of such owner or occupier

Connections may be made or required by the Committee in the case of sewerage.

120 A Committee may prescribe the size of the ferrules to be used for the supply of water or of gas and may establish meters or other appliances for the purpose of testing the quantity or quality of any water or gas or electricity supplied to the premises of any person or to, or for the use of, any person or business

Power to prescribe size of ferrule and to establish meters and the like

121 The ferrules, communication pipes, connections, meters, stand-pipes and all fittings thereon or connected therewith, leading from mains or service cables, wires, pipes, drains, sewers or channels into any house or land and the wires pipes, fittings and works inside any such house or within the limits of any such land shall in all cases be executed subject to the inspection by, and to the satisfaction of, the Committee

Communications and connections to be made subject to inspection by and to the satisfaction of the Committee

122 A Committee may fix the charges to be made for the establishment by it or through its agency of communications from and connections with mains or service cables wires or pipes for the supply of lighting, telephonage or gas, or for meters or other appliances for testing the

Rates and [illegible]

quantity or quality thereof supplied, and may levy such charges accordingly.

Disposal of Surface Water.

Troughs and pipes for rain water.

123. (*1*) The Committee may, by notice, require the owner of any building or land in any street to put up and keep in good condition proper troughs and pipes for receiving and carrying the water from the building or land and for discharging the same so as not to inconvenience persons passing along the street.

(*2*) For the purpose of efficiently draining any building or land in the municipality, a Committee may, by notice in writing,—

(*a*) require any court-yard, alley or passage between two or more buildings to be paved with such materials and in such manner as may be approved by it, and

(*b*) require such paving to be kept in proper repair.

Bathing and Washing Places.

Bathing and washing places.

124. (*1*) A Committee may set apart suitable places in the municipality for the purposes of bathing, and may specify the times at which, and the sex of the persons by whom, such places may be used, and may also set apart suitable places for washing animals or clothes, or for any other purpose connected with the health, cleanliness or comfort of the inhabitants of the municipality; and may, by public notice, prohibit the bathing or washing of animals or clothes in any public place not so set apart, or at times or by persons other than those specified and any other act by which water in public places may be rendered foul or unfit for use, and may charge fees for the use of such places by any specified class or classes of persons or by the public generally.

(*2*) A Committee may fix, by notice, places at which articles of clothing, bedding, or other articles which have been exposed to infection shall be washed, and no person shall wash any such article at any place in the municipality not so fixed.

Scavenging.

oval d deposit offensive matter.

125. A Committee may fix places within, or, with the approval of the Commissioner, beyond the limits of, the municipality for the deposit of refuse, rubbish or offensive matter of any kind or for the disposal of the dead bodies of animals, and may by public notice give directions as to the time, manner and conditions at, in and under which such refuse, rubbish or offensive matter or dead bodies of animals may be removed along any street and deposited at such places.

Penalty for failure to remove

126. Whoever, being the owner or occupier of any building or land in a municipality, keeps or knowingly or negligently allows to be kept

(2) The Magistrate receiving the complaint shall hold an inquiry, and if it appears to him that the agriculturist has not provided for the proper house scavenging of the building he may pass an order empowering the Committee to undertake the same and thereupon the Committee shall be entitled to undertake such house scavenging

138 (1) Whenever any animal in the charge of any person dies in a municipality otherwise than by slaughter either for sale or for some religious purpose, the person in charge thereof shall within twenty-four hours, either— Disposal of dead animals.

(a) convey the carcass to a place (if any) fixed by the Committee under section 125 for the disposal of the dead bodies of animals or, if no such place has been fixed to some suitable place at least one mile beyond the limits of the municipality, or

(b) give notice of the death to the Committee whereupon the Committee shall cause the carcass to be disposed of

(2) In respect of the disposal of the dead body of an animal under clause (b) of sub section (1) the Committee may charge such fee as it may by public notice prescribe in this behalf

(3) For the purposes of this section "animal" means and includes all horned cattle elephants camels horses ponies asses mules deer sheep goats, swine and other large animals

(4) Any person who fails when so required by sub section (1), to take action in accordance therewith shall be punishable with fine which may extend to ten rupees

Slaughter Places

139 (1) A Committee may appoint premises within or, with the approval of the Commissioner beyond the limits of the municipality for the slaughter of animals for sale or of any specified description of such animals and may with the like approval in the case of premises outside the limits of the municipality grant licences for the use of such premises or, if they belong to the Committee charge rent or fees for the use of the same Places for slaughter of animals for sale

(2) When such premises have been appointed by a Committee beyond municipal limits, it shall have the same power to make bye laws for the inspection and proper regulation of the same as if they were within those limits

(3) When any such premises have been appointed, no person shall slaughter any such animal for sale at any other place within the municipality

(4) Any person who slaughters for sale any animal at any place within a municipality other than a place appointed by the Committee under this section, if any place, whether within or beyond the limits of the municipality, has been so appointed, shall be punishable with fine which may extend to twenty rupees.

Food and Drugs.

Control of sale of food and drugs.

140. A Committee may regulate by bye-law or otherwise the keeping of any place in the municipality, other than a municipal market, as a market or shop for the sale of animals, meat or fish intended for human food, or as a market for the sale of fruit or vegetables; and such bye-laws may prohibit, subject to the exception aforesaid, the keeping of any place for any such purpose save under and in accordance with the conditions of a licence granted in that behalf by the Committee:

Provided that, where a licence is so prescribed, the Committee shall not—

(a) refuse a licence for the keeping of a market or shop lawfully established at the date of such bye-law coming into force, if application therefor is made within six months of such date, except on the ground that the place where such market or shop is kept fails to comply with any of the conditions to be attached to such licence, or

(b) cancel, suspend, or refuse to renew a licence granted under any such bye-law for any cause other than the failure of the licensee to comply, after warning, with some provision of this regulation, or of such bye-laws or with some condition of such licence.

Penalty for selling food or drink, not of the nature, substance or quality of the article demanded by the purchaser.

141. (1) Whoever sells, to the prejudice of any purchaser, any article of food or drink or any drug which is not wholly of the nature, substance or quality of the article demanded by such purchaser, or any drug adulterated in such a manner as to lessen its efficacy or change its operation or render it noxious, shall be punishable with fine which may extend to one hundred rupees:

Provided that an offence shall not be deemed to be committed under this section in the following cases, that is to say,—

(a) where any matter or ingredient not injurious to health has been added to the food, drink or drug in order to the production or preparation of the same as an article of commerce in a state fit for carriage or consumption, and not fraudulently to increase the bulk, weight or measure or conceal the inferior quality thereof, or

(b) where the food, drink or drug is unavoidably mixed with some extraneous matter in the process of collection or preparation

(2) In any prosecution under this section it shall be no defence to allege that the vendor was ignorant of the nature, substance or quality of the article sold by him, or that the purchaser, having bought such article for analysis only, was not prejudiced by the sale

142 Whoever feeds or allows to be fed on any deleterious substance, filth or refuse of any kind any animal which is kept or is intended to be used for the supply of milk or food to the inhabitants of a municipality, shall be punishable with fine which may extend to fifty rupees

Penalty for feeding animals on deleterious substances.

Dangerous Diseases

143 Whoever,—

Information to be given of cholera, small pox, etc.

(a) being a medical practitioner or a person openly and constantly practising the medical profession, and in the course of such practice becoming cognizant of the existence of any infectious or contagious disease in any dwelling in a municipality other than a public hospital, or

(b) being the owner or occupier of such dwelling, and being cognizant of the existence of any such disease therein, or

(c) being the person in charge of, or in attendance on, any person suffering from any such disease in such dwelling, and being cognizant of the existence of the disease therein,

fails to give information to such officer as the Committee may prescribe in this behalf, or gives false information, respecting the existence of such disease, shall be punishable with fine which may extend to fifty rupees

Provided that a person such as is referred to in clause (b) shall not be punishable if he had reasonable cause to believe that the information had been, or would be, duly given by a person such as is referred to in clause (a), and a person such as is referred to in clause (c) shall not be punishable if he had reasonable cause to believe that the information had been, or would be, duly given by a person such as is referred to in clause (a) or clause (b)

144 In any municipality to which this section may be extended by the Chief Commissioner by notification, when any person suffering from any infectious or contagious disease is found to be—

Removal to hospital of patients suffering from infectious or contagious diseases.

(a) without proper lodging or accommodation, or

(b) living in a *sarai* or other public hostel, or

(*c*) living in a room or house which he does not own, or pay rent for, or occupy with the owner's express permission, or

(*d*) lodged in premises occupied by members of two or more families any of whom objects to his continuing to lodge in such premises,

the Committee, by any person authorised by it in this behalf, may, on the advice of any medical officer of rank not inferior to that of an assistant surgeon, remove the patient to any hospital or place at which persons suffering from such disease are received for medical treatment, and may do anything necessary for such removal.

Disinfection of buildings and articles.

145. If a Committee is of opinion that the cleansing or disinfecting of a building in the municipality, or any part thereof, or of any article therein, which is likely to retain infection, will tend to prevent or check the spread of any disease, it may, by notice, require the owner or occupier to cleanse or disinfect the same in such manner and within such time as may be prescribed in the notice.

Penalty for letting infected house.

146. Every person knowingly letting a house or other building in a municipality, or part of such a house or building, in which any person has been suffering from an infectious or contagious disease, without having such house or building or part thereof and all articles therein liable to retain infection disinfected to the satisfaction of the Committee shall be liable to fine which may extend to two hundred rupees.

Explanation.—For the purpose of this section, a hotel or lodging-house keeper shall be deemed to let part of his house to any person admitted as a guest into his hotel or lodging-house.

Provision of places and appliances for disinfection.

147. In any municipality to which this section may be extended by the Chief Commissioner by notification, the Committee may—

(*a*) provide proper places, with all necessary attendants and apparatus, for the disinfection of conveyances, clothing, bedding or other articles which have been exposed to infection;

(*b*) cause conveyances, clothing or other articles brought for disinfection to be disinfected free of charge or subject to such charges as may be approved by it;

(*c*) direct any clothing, bedding or other articles likely to retain infection to be disinfected or destroyed;

and shall give compensation for any article destroyed under this section.

Penalty for acts done by persons suffering from certain disorders.

148. Whoever, while suffering from an infectious, contagious or loathsome disease or disorder—

(*a*) makes or offers for sale any article of food or drink for human consumption or any medicine or drug, or

(*b*) wilfully touches any such article, medicine or drug when exposed for sale by others, or

(*c*) takes any part in the business of washing or carrying soiled clothes,

shall be punishable with fine which may extend to twenty rupees.

149. If a Committee, on the report of the Civil Surgeon or Health Officer, considers that the water in any well, tank or other place in the municipality is likely, if used for drinking, to generate or cause the spread of any dangerous disease, it may— *Prohibition by Committee of use of unwholesome water.*

(*a*) by public notice prohibit the removal or use of such water for drinking,

(*b*) by notice require the owner or person having control of such well, tank or place to take such steps as may be specified in the notice to prevent the public from having access to or using such water, or

(*c*) take such steps as it may, on the advice of the Civil Surgeon or Health Officer, consider expedient to prevent the generation or spread of any such disease.

Burial and Burning places

150. (*1*) A Committee may, by public notice, order any burial or burning ground situate in the municipality or within one mile thereof, which is certified by the Civil Surgeon or Health Officer to be dangerous to the health of persons living in the neighbourhood, to be closed from such date as may be specified in the notice, and shall, in such case, if no suitable place for burial or burning exists within a reasonable distance, provide a fitting place for the purpose. *Powers in respect of burial and burning places.*

(*2*) Private burial places in such burial grounds the limits of which are sufficiently defined, and which are only used for the burial of members of the family of the owners thereof may be excepted from the notice, subject to such conditions as the Committee may impose in this behalf.

(*3*) No burial or burning ground, whether public or private, shall be made or formed in a municipality or within one mile thereof without the permission in writing of the Committee.

(*4*) If any person, without the permission of the Committee, buries or burns, or causes or permits to be buried or burnt, any corpse at any place in a municipality or within one mile thereof which is not a burial or burning ground, or in any burial or burning ground made or formed contrary to the provisions of this section, or in any burial or burning ground after any date which has been fixed under sub-section (*1*) for the

closing of the same, he shall be punishable with fine which may extend to fifty rupees.

Control over removal of corpses.

151. (*1*) A Committee may, by public notice, prescribe routes for the removal of corpses to burial or burning places.

(*2*) Whoever carries a corpse along a route prohibited by the Committee, or in a manner likely to cause annoyance to the public, shall be punishable with fine which may extend to ten rupees.

Dangerous or Insanitary Buildings or Places.

Powers to require buildings, wells, tanks, etc., to be secured.

152. If any building, tank, reservoir, pool, depression or excavation in a municipality is, for want of sufficient repair, protection or enclosure, dangerous to the persons dwelling or working therein or in the neighbourhood thereof or to persons passing by, the Committee may, by notice, require the owner or occupier thereof to repair, protect or enclose the same; and shall forthwith take, at the expense of the owner, any steps which it thinks necessary for the purpose of averting imminent danger.

Power to order removal or repair of buildings, etc., in dangerous state.

153. If in any municipality any building, wall or structure or any thing affixed thereto, or any bank or tree, is deemed by the Committee to be in a ruinous state or in any way dangerous, the Committee may, by notice, require the owner thereof forthwith either to remove the same or to cause such repairs to be made to the building, wall, structure or bank as the Committee may consider necessary for the public safety, and shall forthwith take, at the expense of the owner, any steps which it thinks necessary for the purpose of averting imminent danger.

Power to order cleansing of filthy building or land.

154. If the owner or occupier of any building or land in a municipality suffers the same to be in a filthy or unwholesome state, the Committee may, by notice, require him within twenty-four hours to cleanse the same or otherwise put it in a proper state, and thereafter to keep it in a clean and proper state; and, if it appears to the Committee to be necessary for sanitary purposes to do so, it may at any time, by notice, direct the occupier of any building in the municipality to lime-wash or otherwise cleanse the said building inside or outside in such manner and within such period as may be specified in the notice.

Power to prohibit use for human habitation of buildings unfit for such use.

155. If any building, or any part of any building, in a municipality appears to the Committee to be unfit for human habitation in consequence of the want of proper means of drainage or ventilation or for any other sufficient reason, the Committee may, by notice, prohibit the owner or occupier thereof from using the same for human habitation, or suffering it to be so used, until it has been rendered fit for such use to the reasonable satisfaction of the Committee.

Power to require owner to

156. A Committee may, by notice, require the owner or occupier of any land in the municipality to clear away and remove therefrom any

thick vegetation or undergrowth which may appear to the Committee to be injurious to health or offensive to persons residing in the neighbourhood

clear away noxious vegetation.

157 A Committee may, by notice, require the owner or occupier of any land in the municipality to cut or trim within three days the hedges growing thereon and bordering on any street, or any branches of trees growing thereon which overhang any street and obstruct the same or cause danger, or which so overhang any well, tank or other source from which water is derived for public use as to be likely to pollute the water thereof

Power to require hedges and trees to be trimmed.

158 A Committee may, by notice require the owner or part owner, or person claiming to be the owner or part-owner, of any building or land in the municipality which, by reason of abandonment or disputed ownership or other cause, has remained untenanted and become a resort of idle and disorderly persons or otherwise a nuisance to secure or enclose the same within such time as may be fixed by the notice

Power to require untenanted building becoming a nuisance to be secured or enclosed.

159 A Committee may by notice, require the owner or occupier of any land or building in the municipality to cleanse, repair, cover, fill up or drain off any private well, tank reservoir, pool, depression or excavation therein which may appear to the Committee to be injurious to health or offensive to the neighbourhood

Power to require removal of nuisance arising from tanks and the like

Provided that, if for the purpose of effecting any drainage under this section it is necessary to acquire any land not belonging to the same owner or to pay compensation to any person, the Committee shall provide such land or pay such compensation

160 If the Civil Surgeon or Health Officer certifies that the cultivation of any description of crop or the use of any kind of manure or the irrigation of land in any specified manner—

Prohibition of cultivation use of manure or irrigation injurious to health.

(*a*) in any place within the limits of the municipality, is injurious, or facilitates practices which are injurious, to the health of persons dwelling in the neighbourhood, or

(*b*) in any place within or beyond the limits of the municipality, is likely to contaminate the water-supply of the municipality or otherwise render it unfit for drinking purposes,

the Committee may, by public notice, prohibit the cultivation of such crop, the use of such manure, or the use of the method of irrigation so reported to be injurious, or impose such conditions with respect thereto as may prevent such injury or contamination

Provided that, when on any land to which such notice applies the act prohibited has been practised during the five years next preceding the notice in the ordinary course of husbandry, compensation shall be

paid from the municipal fund to all persons interested therein for any damage caused to them by the effect of such notice.

Dangerous or Offensive Trades.

Regulation of offensive and dangerous trades.

161. (*1*) No place within a municipality shall be used—

(*a*) for melting tallow;

(*b*) for boiling bones, offal or blood;

(*c*) as a soap-house, oil-boiling-house, dyeing-house or tannery;

(*d*) as a brick-field, brick-kiln, pottery or lime kiln;

(*e*) as any other manufactory, engine-house or place of business from which offensive or unwholesome smells, noises or smoke arise;

(*f*) as a yard or depôt for trade in hay, straw, thatching-grass, dry leaves, wood, charcoal or coal, or other dangerously inflammable material; or

(*g*) as a store-house for any explosive, or for petroleum or any inflammable oil or spirit;

except under a licence from the Committee which shall be renewable annually.

(*2*) The licence shall not be withheld unless the Committee considers that the business which it is intended to establish or maintain would be the cause of annoyance, offence or danger to persons residing in, or frequenting the immediate neighbourhood, or that for general reasons the establishment of such business in the locality is undesirable.

(*3*) The Committee may charge fees according to a scale to be fixed by bye-law for such licences, and may impose such conditions in respect thereof as it may think necessary. Among other conditions, it may prescribe that any furnace used in connection with such trade shall, so far as practicable, consume its own smoke.

(*4*) Whoever, without a licence or in contravention of the condition of any such licence, uses any place for any such purpose as is specified in this section shall be punishable with fine which may extend to fifty rupees, and, in the case of a continuing offence, with a further fine which may extend to ten rupees for every day after the first during which the offence is continued.

Prohibition of cinematographs and dramatic performances except in licensed premises.

162. (*1*) No exhibition of pictures or other optical effects by means of a cinematograph or other similar apparatus for the purpose of which inflammable films are used and no public dramatic performance or pantomime, shall be given in any municipality elsewhere than in premises for which a licence has been granted by the Committee under this section.

(3) If the owner [illegible] apparatus [illegible] any public [illegible] premises [illegible] visions of this section [illegible] under he shall be liable [illegible] rupees and in the case of a continuing [illegible] of fifty rupees for each day [illegible] licence if any of which he [illegible] liable to be revoked by the Committee.

163 (1) Whenever it is shown to the satisfaction of the Committee that any place licensed under section 161 or section 162 is a nuisance to the neighbourhood or is likely to be dangerous to life, health or property, the Committee may by notice require the occupier thereof to discontinue the use of such place or to effect such alterations, additions or improvements as will in the opinion of the Committee render it no longer a nuisance or dangerous.

(2) Whoever, after any notice has been given under this section, uses such place or permits it to be used in such a manner as to be a nuisance to the neighbourhood or dangerous, or does not effect such alterations, additions or improvements, shall be punishable with fine which may extend to two hundred rupees, and in the case of a continuing offence, with a further fine not exceeding fifty rupees for every day after the first during which the offence is continued.

164. Whoever in a municipality quarries, blasts, cuts timber or carries on building operations in such a manner as to cause or to be likely to cause danger to persons passing by or dwelling or working in the neighbourhood, shall be punishable with fine which may extend to fifty rupees.

Fairs

165 When special police protection is, in the opinion of the Chief Commissioner, requisite on the occasion of any fair, agricultural show or industrial exhibition managed by a Committee or for the purpose of guarding houses in a municipality evacuated on account of plague, the Chief Commissioner may provide such protection, and the Committee shall pay the whole charge thereof or such portion of such charge as the Chief Commissioner may consider equitably payable by it.

166. A Committee may levy fees, not exceeding such amount in any case as the Chief Commissioner may fix in this behalf by notification, from each person attending a fair on which the Committee incurs

expenditure under this Regulation and from persons exposing goods for sale and all persons plying any occupation for gain (except water-carriers, scavengers and others employed in connection with the fair) for defraying the cost of sanitary arrangements, watch and ward and the like.

Brothels.

Powers over disorderly houses and prostitutes.

167. (*1*) A Committee may, by notice, prohibit in any specified part of the municipality—

(*a*) the keeping of a brothel;

(*b*) the residence of a public prostitute.

(*2*) Whoever fails to comply with a notice issued under sub-section (*1*) shall be punishable with imprisonment for a term which may extend to eight days, or with fine which may extend to fifty rupees, and, in the case of a continuing failure, with a further fine which may extend to five rupees for every day after the first during which the failure continues.

Power to close down brothels.

168. On the complaint of the Committee or of three or more inhabitants of a municipality that a house in the municipality is used as a brothel, or by disorderly persons of any description to the annoyance of the respectable inhabitants of the vicinity, or that any such house is used as a brothel in the neighbourhood of a cantonment or of an educational institution or boarding-house or of any place of worship, any Magistrate of the first class having jurisdiction in the place where the house is situated may summon the owner or tenant of the house, and, on being satisfied that the house is so used and that it is a source of annoyance or offence to the neighbours, or that it is in the neighbourhood of a cantonment or of an educational institution or boarding-house, or of any place of worship, may order the owner or tenant to discontinue such use of it; and, if he fails to comply with such order within five days, may impose upon him a fine which may extend to twenty-five rupees for every day thereafter during which the house has been so used.

Animals.

Disposal of mad and stray dogs and other animals.

169. (*1*) A Committee may—

(*a*) authorise any person—

(*i*) to destroy or cause to be destroyed, or to confine or cause to be confined, for such period as the Committee may direct, any dog or other animal found in the municipality suffering, or reasonably suspected to be suffering, from rabies, or bitten by any dog or other animal suffering or suspected as aforesaid;

(ii) to confine, or cause to be confined, any dogs found wandering about streets or public places without collars or other marks distinguishing them as private property;

(b) charge a fee for any dog confined under sub-clause (ii) of clause (a) and destroy or otherwise dispose of any such dog if the dog is not claimed and the fee paid within one week;

(c) by public notice, issue a temporary or standing order that any dogs without collars or other marks distinguishing them as private property found straying on the street or beyond the enclosures of the houses of the owners of such dogs may be destroyed, and destroy or cause them to be destroyed accordingly

(2) No damages shall be payable in respect of any dog or other animal destroyed or otherwise disposed of under this section.

170. Whoever in a municipality keeps any swine in disregard of any orders which the Committee may give to prevent them from becoming a nuisance or keeps any other animal so as to be injurious to the health of the inhabitants or of animals or so as to become a nuisance, shall be punishable with fine which may extend to twenty rupees, and, in the case of a continuing offence, with a further fine which may extend to five rupees for every day after the first during which the offence is continued

Penalty for keeping animal so as to be injurious to health.

Other Nuisances

171. Whoever, in contravention of any general or special prohibition issued by a Committee, without the permission of the Committee beats a drum or tomtom, blows a horn or trumpet, or beats or sounds any brass or other instrument or utensil, shall be punishable with fine which may extend to twenty-five rupees

Penalty for beating drums, etc.

Explanation —In the case of an offence under this section committed by a band, each individual member of such band shall be so punishable

172. Whoever in a municipality discharges firearms or lets off fireworks fire-balloons or detonators, or engages in any game, in such a manner as to cause, or be likely to cause, danger to persons passing by or dwelling or working in the neighbourhood or risk of injury to property, shall be punishable with fine which may extend to twenty rupees.

Penalty for discharging firearms, etc.

173. (1) Whoever, in any municipality to which this section is extended by the Chief Commissioner by notification, without the written permission of the Committee or at any time in respect of which any such permission is not applicable, uses or employs in any factory or other

Control of use of steam whistles, etc.

place any steam whistle or steam trumpet for the purpose of summoning or dismissing workmen or persons employed shall be punishable with fine which may extend to fifty rupees.

(*2*) The Committee may revoke any permission given under sub-section (*1*) after giving one month's notice.

Prohibition of collecting inflammable materials, etc.

174. A Committee may, where it appears to it to be necessary for the prevention of danger to life or property, by public notice, prohibit the stacking or collecting of timber, wood, dry grass, straw or other inflammable materials, or the placing of mats or thatched huts or the lighting of a fire, in any place, or within any limits in the municipality which may be specified in the notice.

CHAPTER X.

STREETS.

Power over streets.

175. A Committee may—

(*a*) close temporarily any public street or any part thereof for any public purpose;

(*b*) divert, discontinue or close permanently any public street; or

(*c*) sell the land forming such street or any part thereof if not required for the purposes of this Regulation.

Power of permitting temporary occupation of streets, etc.

176. A Committee may grant permission in writing for the temporary occupation of any street or land vested in it for the purpose of depositing any building materials or making any temporary excavation therein or erection thereon, subject to such conditions as it may prescribe for the safety or convenience of persons passing by or dwelling or working in the neighbourhood, and may charge fees for such permission.

Power to require repairs to streets and declare such streets public.

177. (*1*) When a Committee considers that in any street, not being a public street which has previously been levelled, paved, metalled, channelled, sewered and repaired out of municipal or other public funds, or in any part of such street it is necessary for the public health, convenience or safety that any work should be done for the levelling, paving, metalling, flagging, channelling, draining, lighting or cleaning thereof, the Committee may, by notice, require the respective owners of the land or buildings, fronting, adjoining or abutting upon such street or part thereof, to carry out such work in such manner and within such time as may be specified in the notice.

(*2*) If the notice is not complied with within the time specified, the Committee may, if it thinks fit, execute the work mentioned or referred to therein, and may recover the expenses incurred in so doing from the

owners in default according to the frontage of their respective lands or buildings and in such proportion as may be decided by the Committee

(3) After such work has been carried out whether by such owners or by the Committee at their expense the street or part thereof in which such work has been done may, and on the joint requisition of a majority of the said owners shall, be declared by a public notice put up therein by the Committee, to be a public street and shall vest in the Committee

(4) A Committee may by public notice fixed up in any street or part of a street not maintained by the Committee give intimation of its intention to declare the same a public street and unless within one month next after such notice has been so put up the owner or the majority of several owners of such street or such part of a street lodges or lodge objections thereto at the office of the Committee the Committee may by public notice put up in such street or such part declare the same to be a public street vested in the Committee

(5) This section shall not have operation in any municipality until it has been specially extended thereto by the Chief Commissioner by notification at the request of the Committee

Encroachments and Obstructions

178 (1) Whoever, without the written permission of the Committee, builds or erects any immoveable encroachment upon the ground level of any street or over or on any sewer, drain or water-course in a municipality, or builds or makes any immoveable overhanging structure projecting into a street at a point above the said ground level shall be punishable with fine which may extend to fifty rupees

Penalty for altering obstructing or encroaching upon street

(2) The Committee may, by notice, require the owner or occupier of any building to remove or alter such immoveable encroachment or overhanging structure as aforesaid, and no compensation shall be claimable in respect of such removal or alteration

179 (1) Whoever in a municipality, without the written permission of the Committee,—

Removal of projections and obstructions in streets.

(a) places in front of any building any moveable encroachment upon the ground level of any street or over or on any sewer, drain or water course, or erects any moveable overhanging structure projecting into the street at a point above the said ground level, or

(b) takes up or alters the pavement or other materials or the fences or posts of any street, or

(c) deposits building materials, goods for sale or other articles of merchandise on any street, or

(d) makes any hole or excavation in or under any street, or removes materials from beneath any street, so as to cause risk of subsidence,

shall be punishable with fine which may extend to fifty rupees.

(2) The Committee or the Secretary of the Committee or the Executive Officer may—

(i) summarily remove, or cause to be removed by the police, any such moveable encroachments or overhanging structures and any such materials, goods or articles of merchandise,

(ii) take order summarily to restore the street to the condition it was in before any such alteration, excavation or damage,

and the expense of such restoration shall be recoverable from the offender.

Explanation.—For the purposes of this section 'moveable encroachment' includes a seat or settle, and 'moveable overhanging structure' includes an awning of any material.

Removal of projections and obstructions on payment of compensation.

180. In cases to which the provisions of section 178 or section 179 do not apply, the Committee may, subject to the payment of reasonable compensation, by notice require the owner or occupier of any building in the municipality to remove or alter any balcony, projection, structure or verandah overhanging any street or projecting into or encroaching on any street, or any drain, sewer or aqueduct therein.

Power to regulate line of buildings in street.

181. (1) If any building or part of a building projects beyond the regular line of a street, either existing or determined on for the future, or beyond the front of the building on either side thereof, the Committee may, whenever such building or part has been either entirely or in greater part taken down or burnt down, or has fallen down, by notice require such building or part when being re-built to be set back to or towards the said regular line or the front of the adjoining buildings; and the portion of the land added to the street by such setting back or removal shall become part of the street and shall vest in the Committee:

Provided that the Committee shall make full compensation to the owner for any damage which he may sustain in consequence of his building or any part thereof being set back.

(2) The Committee may, on such terms as it thinks fit, allow any building to be set forward for the improvement of the line of the street.

(3) The provisions of this section shall apply to the rounding off of dangerous or inconvenient street corners.

General Provisions as to Streets

182. A Committee may attach to the outside of any building in the municipality brackets for lamps in such manner as not to occasion any injury to such building or other inconvenience.

Power to attach brackets for lamps on houses.

183. Whoever, without being authorised by the Committee, defaces or disturbs any municipal direction post, lamp post or lamp, or extinguishes any municipal light in any public place, shall be punishable with fine which may extend to ten rupees.

Penalty for destroying direction-posts, lamp-posts, etc.

184. Whoever, without the consent of the owner or occupier or other person for the time being in charge, affixes any posting bill, notice, placard or other paper or means of advertisement against or upon any building, wall, tree, board, fence or pale in a municipality, or writes upon, soils, defaces or marks any such building, wall, tree, board, fence or pale with chalk or paint or in any other way whatsoever, shall be punishable with fine which may extend to twenty rupees.

Penalty for bill sticking without permission.

185. (*1*) A Committee may cause a name to be given to any street, and to be affixed on any building therein in such place as it may think fit, and may also cause a number to be affixed to any building in the municipality.

Names to streets and numbers to buildings.

(*2*) Whoever destroys, pulls down or defaces any name or number affixed to any street or building under this section or puts up any different name or number from that put up by order of the Committee, shall be punishable with fine which may extend to twenty rupees.

Street Nuisances

186. Whoever, without the permission of the Committee, pickets animals or collects carts on any street or uses any street as a halting place for vehicles or animals of any description or as a place of encampment or causes or permits animals to stray therein, shall be punishable with fine which may extend to twenty rupees.

Penalty for picketing animals and collecting carts.

187. Whoever, between such hours as may be prescribed by bye-laws, drives or propels in any street any vehicle which is not properly supplied with lights shall be punishable with fine which may extend to twenty rupees.

Penalty for driving vehicles without proper lights.

188. Whoever, being the owner or person in charge of any dog, neglects to restrain it so that it shall not be at large in any street without a muzzle—

Penalty for suffering dogs to be at large.

(*a*) if such dog is likely to annoy or intimidate passengers, or

(*b*) if the Committee has by public notice during the prevalence of rabies directed that dogs shall not be at large without muzzles,

shall be punishable with fine which may extend to twenty rupees.

Obligations on drivers of elephants and camels.

189. Whoever, being in charge of any elephant, camel or bear in any street or public place, omits, on being requested to do so, to remove as far as may be practicable the elephant, camel or bear to a safe distance on the approach of a horse, whether ridden or driven, shall be punishable with fine which may extend to twenty rupees.

Penalty for taking elephants along streets.

190. Whoever, in contravention of any order of the Committee promulgated by public notice, takes an elephant along a street, shall be punishable with fine which may extend to twenty rupees.

Penalty for begging.

191. Whoever in any street or public place begs importunately for alms or exposes or exhibits, with the object of exciting charity, any deformity or disease, or any offensive sore or wound, shall be punishable with fine which may extend to twenty rupees.

CHAPTER XI.

BUILDINGS.

Power to prescribe materials not to be used in walls and roofs.

192. A Committee may by public notice direct that, within such limits within the municipality as may be specified in the notice, the roofs and external walls of huts or other buildings shall not be made or renewed of grass, mats, leaves or other highly inflammable materials without the permission of the Committee in writing; and the Committee may, by notice, require any person who has disobeyed any such direction to remove or alter the roofs or walls so made or renewed, as it thinks fit.

Definition.

193. For the purposes of this Chapter, a person is said to erect or re-erect a building who makes any material alteration or enlargement of a building or any part of a building.

Explanation.—An alteration in a building shall be deemed to be material if it—

(*a*) affects or is likely to affect prejudicially the stability or safety of the building or the condition of the building in respect of drainage, ventilation, sanitation or hygiene, or

(*b*) increases or diminishes the height or cubical capacity of, or the area covered by, the building or reduces the cubical capacity of any room in the building below the minimum prescribed in any bye-law, or

(*c*) converts into a place for human habitation a building or part of a building originally constructed for other purposes, or

(*d*) involves the addition of any rooms, out-houses or other structures to any building, or

(e) involves the construction in a wall adjoining any land not belonging to the owner of the wall of a door opening on to such land, or

(f) is an alteration of any kind which has been declared by bye-law to be a material alteration.

194. (1) No person shall erect or re-erect or commence to erect or re-erect, any building in a municipality without the sanction of the Committee. Prohibition of building without sanction.

(2) Every person who intends to erect or re-erect any building shall give notice in writing to the Committee of such intention.

(3) The Committee may, by bye-law,—

(a) prescribe the manner in which notice of the intention to erect or re-erect a building shall be given to the Committee,

(b) require that with every such notice there shall be furnished a site plan of the land on which it is intended to erect or re-erect such building and a plan and specification of the building of such character and with such details as the bye-law may require in respect of all or any of the following matters, namely:—

(i) the free passage or way to be left in front of the building;

(ii) the space to be left about the building to secure free circulation of air and facilitate scavenging and for the prevention of fire;

(iii) ventilation, and the provision and position of drains, privies, latrines, urinals or cess-pools,

(iv) the level and width of the foundation, the level of the lowest floor and the stability of the structure, and

(v) the line of frontage with neighbouring buildings, if the building abuts on a street.

(4) Where bye-laws have been framed under this section, no notice under sub-section (2) shall be valid until the information, if any, required by such bye-laws has been furnished to the satisfaction of the Committee.

195. A Committee may by bye-laws regulate in respect of the erection or re-erection of any buildings within the municipality or any part thereof— Power to make bye-laws as to mode of construction of buildings.

(a) the materials and method of construction to be used for external and party walls, roofs, floors, fire-places and chimneys,

(b) the materials and method of construction and position of fire-places, chimneys, drains, latrines, privies, urinals and cesspools;

(c) the height and slope of the roof above the uppermost floor upon which human beings are to live or cooking operations are to be carried on;

(d) the ventilation and the space to be left about the building to secure the free circulation of air and for the prevention of fire;

(e) the line of frontage where the building abuts on a street;

(f) the number and height of the storeys of which the building may consist, and

(g) the means to be provided for egress from the building in case of fire.

Special provision for cases, where bye-laws have not been made.

196. In any case in which no bye-laws have been made under sub-section (3) of section 194, the Committee may, within fourteen days of the receipt of the notice required by sub-section (2) of that section, require a person who has given such notice to furnish, within one week of the receipt by him of the requisition, information on all or any of the matters as to which bye-laws might have been made, and in such case the notice shall not be valid until such information has been furnished.

Dispensation from bye-laws.

197. A Committee may by resolution dispense with the observance of any or all of the bye-laws made under sub-section (3) of section 194 in regard to the erection or re-erection of any building specified in the resolution.

Powers to refuse sanction to build.

198. Within one month after the receipt of the notice required by sub-section (2) of section 194, the Committee may refuse to sanction the building or may sanction it either absolutely or subject to such modification as it thinks fit in respect of all or any of the matters specified in sub-section (3) of that section; and the person erecting or re-erecting any such building as aforesaid shall comply with the sanction of the Committee as granted in every particular:

Provided that, if the Committee neglects or omits for one month after the receipt of a valid notice to make and deliver to the person who has given such notice an order of sanction or refusal in respect thereof, it shall be deemed to have sanctioned the proposed building absolutely.

Explanation.—The Committee may refuse to sanction the erection or re-erection of any building either on grounds affecting the particular building or in pursuance of a general scheme sanctioned by the Commissioner restricting the erection or re-erection of buildings or any class

of buildings within specified limits for the prevention of overcrowding, or in the interests of the residents within such limits or for any other public purpose Permission may also be refused in any case in which there is any dispute between the Committee and the applicant as to the title of the land on which it is proposed to erect the building until such dispute is decided

199 Every sanction for the erection or re erection of a building which is given or is deemed to have been given by a Committee shall remain in force for one year only from the date of such sanction and, if the erection or re erection of the building is not commenced within the said period of one year the sanction shall be deemed to have lapsed, but such lapse shall not bar any subsequent application for fresh sanction under the foregoing provisions of this Regulation

Lapse of sanction to build.

200 If the erection or re erection of a building is begun or continued—

Penalty for building without sanction.

(a) without sanction as required by sub section (1) of section 194, or

(b) without notice as required by sub section (2) of section 194, or

(c) after sanction has been refused or

(d) in contravention of the terms of any sanction granted or

(e) after the sanction has lapsed, or

(f) in contravention of any bye law made under section 195,

the Committee may by notice to be delivered within a reasonable time require the building to be altered or demolished as it thinks necessary, within the space of thirty days from the date of the service of such notice

Provided that no such notice shall issue in respect of the contravention of any bye law the observance of which has been dispensed with under section 197

Provided further that the Committee may, instead of requiring the alteration or demolition of any such building accept by way of compensation such sum as it thinks reasonable

201 (1) No compensation shall be claimable by an owner for any damage which he may sustain in consequence of a refusal to sanction the erection of any building

Compensation for damage in respect of erections or re erections.

(2) The Committee shall make full compensation to the owner for any damage which he may sustain in consequence of a refusal to sanction the re erection of any building

Provided that the Committee shall not be liable to make any compensation in respect of a refusal to sanction the re-erection of a building which, for a period of three years or more immediately preceding such refusal, has not been in existence or has been unfit for human habitation.

CHAPTER XII.

GENERAL PROVISIONS.

Power of Entry and Inspection.

Power of entry for the purposes of valuation or taxation.

202. Any person authorised by the Committee in this behalf may—

(*a*) after giving twenty-four hours' notice to the occupier, or, if there be no occupier, to the owner, of any building or land in a municipality, at any time between sunrise and sunset, enter, inspect and measure the building or land for the purpose of valuation;

(*b*) enter and inspect any stable, coach-house or other place wherein there is reason to believe that there is any vehicle or animal liable to taxation under this Regulation or for which a license has not been duly taken out.

Power to inspect drains, privies and cesspools.

203. (*1*) Any person authorised by the Committee in this behalf may enter, between sunrise and sunset, any building or land in a municipality and inspect any drain, privy, latrine, urinal, cesspool, cable, wire, pipe, sewer or channel therein or thereon, and cause the ground to be opened where such person thinks fit for the purpose of preventing or removing any nuisance arising from the drain, privy, latrine, urinal, cesspool, cable, wire, pipe, sewer or channel.

(*2*) If, on such inspection, it appears that the opening of the ground was necessary for the prevention or removal of a nuisance, the expenses thereby incurred shall be paid by the owner or occupier of the land or building; but if it is found that no nuisance exists or but for such opening would have arisen, the ground or portion of any building, drain or other work, if any, opened, injured or removed for the purpose of such inspection shall be filled in, reinstated and made good by the Committee.

(*3*) No building other than a latrine, urinal or privy shall be entered under this section until six hours' notice in writing has been given to the occupier of the building by the Committee or by the person authorised by the Committee to make the entry.

204. Any person authorised by the Committee in this behalf may, after giving three hours' notice to the occupier, or, if there be no occupier, to the owner of any building in a municipality, enter and inspect it at any time between sunrise and sunset where such inspection appears necessary for sanitary reasons. Power to inspect buildings for sanitary purposes.

Provided that, if the building to be inspected is a stable for horses or a house or shed for cows or other cattle, previous notice shall not be requisite before inspection

205. Any person authorised by the Committee in this behalf may, after giving twenty-four hours' notice to the occupier, or, if there be no occupier, to the owner of any building or land in a municipality, at any time between sunrise and sunset,— General powers of entry on buildings or land.

(*a*) enter and survey, or take levels or measurements of the building or land,

(*b*) enter the building or land for the purpose of examining works under construction, of ascertaining the course of sewers or drains, or of executing or repairing any work which the Committee is by this Regulation empowered to execute or to maintain,

(*c*) enter the building or land for the purpose of inspecting or repairing gas, water, telephonic, electric or other installations or for taking readings of meters connected therewith.

206. Any person authorised by the Committee in this behalf may at all reasonable times enter into and inspect any market, building, shop stall or place used for the sale of food or drink for man, or as a slaughterhouse, or for the sale of drugs, and inspect an examine any food, drink, drug, or animal which may be therein, and, if any article of food or drink or drug or any animal therein appears to be intended for the consumption of man and to be unfit therefor, may seize and remove the same or may cause it to be destroyed or to be so disposed of as to prevent its being exposed for sale or used for such consumption, Power to inspect places for sale of food or drink, etc., and to seize unwholesome articles exposed for sale.

and, in case it is reasonably suspected that any drug is adulterated in such manner as to lessen its efficacy or to change its operation or to render it noxious, may remove the same, giving a receipt therefor, and cause the owner thereof to be brought before a Magistrate for inquiry whether any offence has been committed in respect thereof, and for orders as to the disposal of the said drug.

207. (*1*) Any person authorised by the Committee in this behalf may at all reasonable times enter into and inspect any market, building, shop, stall or place used for the sale of any goods, food, drink or drug, and may inspect any instruments for weighing, weights or measures found therein and test the same with other weights and measures, and Power to inspect weights and measures and seizure of false weights, etc.

may seize any such instrument for weighing, or any such weight or measure, which he reasonably believes to be false or the use of which he reasonably believes to be contrary to the provisions of any bye-law made in this behalf, and may take the same to be examined or tested by the officer appointed for the purpose.

(*2*) Every person for the time being in charge of or employed in such market, building, shop, stall or place shall, if so requested by the person making such inspection, produce for such inspection and comparison all instruments for weighing, and all weights and measures kept therein.

Power to inspect places for illicit slaughter of animals.

208. If there are reasonable grounds for believing that any animal has been, is being, or is about to be, slaughtered in any place or premises in a municipality not appointed for such purpose under section 139, or in contravention of any bye-law, the Committee, by any person authorised by it in this behalf, may, at all reasonable times, enter into and inspect any such place or premises:

Provided that no entry shall be made under the provisions of this section without an order in writing from the Chairman or from the Health Officer. Such order shall specify the place or premises to be entered and the locality in which the same is situate and the period (which shall not exceed seven days) for which it is to remain in force.

Power to search for inflammable or explosive material in excess of authorised quantity.

209. (*1*) Any person authorised by the Committee in this behalf may at any reasonable time enter and inspect any building in a municipality which is suspected to contain petroleum, explosive or other inflammable material in excess of the quantity permitted to be kept in such house or building under the provisions of this Regulation or of any rule or bye-law or of any public notice made or published thereunder.

(*2*) If any such excess quantity of such material is discovered, it may be seized and held subject to such order as a Magistrate may pass with respect to it.

(*3*) If the Magistrate decides that the material seized was stored in the building contrary to the provisions of this Regulation or of any rule or bye-law or of any public notice made or published thereunder, he shall pass an order confiscating the same.

(*4*) Subject to any general rules for the time being applicable thereto, the material confiscated may be sold by order of the Magistrate. and the proceeds, after the expenses of such sale have been defrayed therefrom, shall be credited to the municipal fund.

(*5*) No order of confiscation under this section shall operate to prevent any other criminal or civil proceedings to which the person storing the material in excessive quantity may be liable.

210 (*1*) Any person authorised by the Committee in this behalf may, at any time after three hours' notice has been given, enter any building or premises, situated in a municipality in which any infectious or contagious disease is reputed or suspected to exist for the purposes of inspecting such building or premises — Power of entry for purposes of preventing spread of disease

(*2*) No such inspection shall be made except in the hours between sunrise and sunset

211 A Committee may authorise persons to exercise the powers of entry conferred by the foregoing sections of this Chapter either generally in regard to all buildings and lands or particularly in regard to specified buildings or lands or classes of buildings or lands — General explanation.

212 When any building used as a human dwelling is entered under this Regulation, due regard shall be paid to the social and religious sentiments of the occupiers, and before any apartment in the actual occupancy of any woman, who according to custom does not appear in public is entered under this Regulation, notice shall be given to her that she is at liberty to withdraw, and every reasonable facility shall be afforded to her for withdrawing — Precaution to be observed in entering dwellings.

213 Whoever refuses to suffer the inspection of any premises, food, drink, drug, animal weight measure, instruments for weighing, petroleum, explosive, or inflammable material, by any person authorised under the foregoing provisions of this Chapter to make such inspection or refuses on being requested by a person authorised under section 207, to produce any weight, measure, or instrument for weighing to which he has access, shall be punishable with fine which may extend to two hundred rupees — Refusal to suffer inspection.

Notices and Consequences of Non compliance therewith

214 When any notice under this Regulation requires any act to be done for which no time is fixed by this Regulation it shall fix a reasonable time for doing the same — Reasonable time for compliance with notices, etc., to be fixed.

215 (*1*) Every notice issued by a Committee under this Regulation shall be in writing, signed by the Chairman, Vice-Chairman, Executive Officer Secretary or Assistant Secretary or by the members of any sub-committee specially authorised by the Committee in that behalf, and may be served on the person to whom it is addressed, or delivered or left at his usual place of abode or business with some adult male member or servant of his family, or, if it cannot be so served, may be affixed to some conspicuous part of his place of abode or business — Authentication, service and validity of notices.

(2) When the place of abode or business of the person to whom the notice is addressed is not within the limits of the municipality, the notice may be served by posting it addressed to his usual place of abode.

(3) If the owner of any property has no place of abode or business within the municipality, every such notice addressed to him as such owner may be served on the occupier.

(4) When the place of abode or business of the occupier of any property is not known, every such notice addressed to him as such occupier may be served by affixing it to some conspicuous part of the property.

(5) No notice issued by the Committee under this Regulation shall be invalid for defect of form.

Service of notices, etc., when owner, and occupier are different persons.

216. Whenever it is provided by or under this Regulation that *any notice* may be given to the owner or occupier of any land or building, and the owner and occupier are different persons, such notice shall be given to that one of them who is primarily liable to comply with such notice, and in case of doubt to both of them:

Provided that in any such case, where there is no owner resident within the municipality, the delivery of such notice to the occupier shall be sufficient.

Mode of giving notice to owner or occupier of property.

217. When any notice is, by or under this Regulation, required to be given to or served on the owner or occupier of any property and he is unknown, it may be given or served—

(*a*) by delivering a written notice to some person on the property, or, if there is no person on the property to whom it can be delivered, by affixing it to some conspicuous part of the property, or

(*b*) by posting a pre-paid letter containing a written notice and addressed by the description of the "owner" or "occupier" of the property (naming it) in respect of which the notice is given, without further name or description.

Publication of public notices.

218. Every public notice given by a Committee under this Regulation shall be published by proclamation or in such other manner as the Chief Commissioner may by rule direct.

Penalty for disobedience of orders of Committee.

219. Whoever disobeys any lawful direction or prohibition given by a Committee by public notice under this Regulation or any written notice lawfully issued by it thereunder, or fails to comply with the conditions subject to which any permission was given by the Committee to him thereunder, shall, if the disobedience or failure is not an offence punishable under any other section, be punishable with fine which may extend to fifty rupees and, in the case of a continuing *disobedience or*

failure, with a further fine which may extend to five rupees for every day after the first during which the disobedience or failure continues:

Provided that, when the notice fixes a time within which a certain act is to be done and no time is specified by or under this Regulation no penalty shall be incurred by reason of such disobedience or failure if, in the opinion of the Court trying the case the time so fixed was not a reasonable time

220 Whenever the terms of any notice issued under this Regulation have not been complied with, the Committee may after six hours' notice, cause the act to be done by its officers — Power in event of non compliance with notices, etc.

221 Any person wilfully obstructing a Committee or any officer or servant of a Committee or any person authorised by a Committee in the exercise of any power conferred by or under this Regulation shall be punishable with fine which may extend to fifty rupees — Penalty for obstruction of Committee

222 (*1*) Where, under this Regulation, the owner or occupier of property is required by a Committee to execute any work and default has been made in complying with the requirement, and the Committee has executed the work the Committee may recover the cost of the work from the person in default — Recovery of costs of execution.

(*2*) As between themselves and the Committee both owner and occupier shall be deemed to be in default for the purposes of this section but that one of them shall be deemed to be primarily in default upon whom, as between landlord and tenant the duty of doing the required act would properly fall either in pursuance of the contract of tenancy or by law

(*3*) When the person primarily in default is the owner and the Committee has recovered the whole or any part of the cost from the occupier, or he has paid the same upon its demand, he may deduct the sum so recovered or paid from the rent from time to time becoming due from him to the owner, or otherwise recover it from such owner

Provided that no occupier shall be required to pay under sub section (*3*) any sum greater than the amount for the time being due from him to the owner, either in respect of rent due at the date of such demand as aforesaid or thereafter accruing, unless he has refused on application to him by the Committee truly to disclose the amount of his rent and the name and address of the person to whom it is payable, but the burden of proof that the sum so demanded by the Committee from the occupier exceeds the rent due at the time of demand, or which has since become due, shall lie on the occupier

(*4*) Where any money recoverable by the Committee under this section is payable by the owner of the property, it shall be a charge

thereon and shall be recoverable as if it were a tax levied by the Committee on the property.

(5) Nothing in this section shall affect any contract between an owner and an occupier.

Relief to agents and trustees in respect of obligations imposed by this Regulation.

223. (*1*) When any person, by reason of his receiving the rent of immoveable property as agent or trustee, or of his being, as agent or trustee, the person who would receive the rent if the property were let to a tenant, would, under this Regulation, be bound to discharge any obligation imposed by or under this Regulation on the owner of the property and for the discharge of which money is required, he shall not be bound to discharge the obligation unless he has, or but for his own improper act or default might have had, in his hand funds belonging to the owner sufficient for the purpose.

(*2*) The burden of proving the fact entitling an agent or trustee to relief under this section shall lie on him.

(*3*) When any agent or trustee has claimed and established his right to relief under this section, the Committee may give him notice to apply to the discharge of such obligation as aforesaid the first monies which shall come to his hands on behalf or for the use of the owner, and, if he fails to comply with such notice, he shall be deemed to be personally liable to discharge such obligation.

Payment of Compensation by the Committee.

Payment of compensation by Committee.

224. (*1*) A Committee may make compensation out of the municipal fund to any person sustaining any damage by reason of the exercise of any of the powers vested in the Committee, its officers or servants under this Regulation, and shall make such compensation where the damage was caused by the negligence of the Committee, its officers or servants and the person sustaining the damage was not himself in default in the matter in respect of which the power was exercised.

(*2*) If any dispute arises regarding the amount of any compensation which the Committee is required by this Regulation to pay for injury to any building or land, it shall be settled in such manner as the parties may agree, or, in default of agreement, in the manner provided by the Land Acquisition Act, 1894, with reference to the acquisition of, and payment of compensation for, land for public purposes so far as the provisions of that Act can be made applicable. 1 of 189

Appeals from Orders, etc., of Committee.

Appeals from Orders of Committee.

225. (*1*) Any person aggrieved—

(*a*) by any order made by a Committee under any power conferred upon it by section 150, section 155 or section 163, or

(*b*) by a notice from a Committee under section 177 requiring a way, road, lane, square, court, alley, passage or open space to be drained, levelled, paved, flagged, metalled or provided with proper means of lighting, or under section 200 requiring the alteration or demolition of a building, or

(*c*) by the refusal of a Committee under section 198 to sanction the erection or re-erection of a building,

may appeal within thirty days from the date of such prohibition, notice or order to such officer as the Chief Commissioner may appoint in this behalf, or, failing such appointment, to the Commissioner, but no such refusal, notice or order shall be liable to be called in question otherwise than by such appeal

(*2*) The appellate authority may, if it thinks fit, extend the period allowed by sub-section (*1*) for appeal

(*3*) The order of the appellate authority confirming, setting aside or modifying the refusal, notice or order appealed from shall be final.

Provided that the refusal, notice or order shall not be modified or set aside until the appellant and the Committee have had a reasonable opportunity of being heard

226. When any order of a kind referred to in section 163, section 219 or section 222 is subject to appeal, and an appeal has been instituted against it, all proceedings to enforce such order and all prosecutions for any contravention thereof or non-compliance therewith shall be suspended pending the decision of the appeal, and, if such order is set aside on appeal, disobedience thereto shall not be deemed to be an offence

Prosecution to be suspended in certain cases.

227. Every order of forfeiture under section 136, and every order under section 137, section 209, or section 232 shall be subject to appeal to the next superior Court, but shall not be otherwise open to appeal

Appeals from certain Magisterial orders.

Offences and Prosecutions

228. (*1*) Every member of the police establishment shall give immediate information to the Committee of any offence made punishable by or under this Regulation, and shall be bound to assist all members, officers and servants of the Committee in the exercise of their lawful authority

Powers and duties of police in respect of offences against Regulation.

(*2*) Every member of the police establishment may arrest any person committing in his view any offence made punishable by or under this Regulation, if—

(*a*) the name and address of the person are unknown to him, and

thereon and shall be recoverable as if it were a tax levied by the Committee on the property.

(*5*) Nothing in this section shall affect any contract between an owner and an occupier.

Relief to agents and trustees in respect of obligations imposed by this Regulation.

223. (*1*) When any person, by reason of his receiving the rent of immoveable property as agent or trustee, or of his being, as agent or trustee, the person who would receive the rent if the property were let to a tenant, would, under this Regulation, be bound to discharge any obligation imposed by or under this Regulation on the owner of the property and for the discharge of which money is required, he shall not be bound to discharge the obligation unless he has, or but for his own improper act or default might have had, in his hand funds belonging to the owner sufficient for the purpose.

(*2*) The burden of proving the fact entitling an agent or trustee to relief under this section shall lie on him.

(*3*) When any agent or trustee has claimed and established his right to relief under this section, the Committee may give him notice to apply to the discharge of such obligation as aforesaid the first monies which shall come to his hands on behalf or for the use of the owner, and, if he fails to comply with such notice, he shall be deemed to be personally liable to discharge such obligation.

Payment of Compensation by the Committee.

Payment of compensation by Committee.

224. (*1*) A Committee may make compensation out of the municipal fund to any person sustaining any damage by reason of the exercise of any of the powers vested in the Committee, its officers or servants under this Regulation, and shall make such compensation where the damage was caused by the negligence of the Committee, its officers or servants and the person sustaining the damage was not himself in default in the matter in respect of which the power was exercised.

(*2*) If any dispute arises regarding the amount of any compensation which the Committee is required by this Regulation to pay for injury to any building or land, it shall be settled in such manner as the parties may agree, or, in default of agreement, in the manner provided by the Land Acquisition Act, 1894, with reference to the acquisition of, and payment of compensation for, land for public purposes so far as the provisions of that Act can be made applicable. 1 of 18[illegible]

Appeals from Orders, etc., of Committee.

Appeals from Orders of Committee.

225. (*1*) Any person aggrieved—

(*a*) by any order made by a Committee under any power conferred upon it by section 150, section 155 or section 163, or

(*b*) by a notice from a Committee under section 177 requiring a way, road, lane square, court, alley, passage or open space to be drained, levelled, paved, flagged, metalled or provided with proper means of lighting, or under section 200 requiring the alteration or demolition of a building, or

(*c*) by the refusal of a Committee under section 198 to sanction the erection or re-erection of a building,

may appeal within thirty days from the date of such prohibition, notice or order to such officer as the Chief Commissioner may appoint in this behalf, or, failing such appointment, to the Commissioner, but no such refusal, notice or order shall be liable to be called in question otherwise than by such appeal.

(*2*) The appellate authority may, if it thinks fit, extend the period allowed by sub-section (*1*) for appeal.

(*3*) The order of the appellate authority confirming, setting aside or modifying the refusal, notice or order appealed from shall be final:

Provided that the refusal, notice or order shall not be modified or set aside until the appellant and the Committee have had a reasonable opportunity of being heard.

226. When any order of a kind referred to in section 163, section 219 or section 222 is subject to appeal, and an appeal has been instituted against it, all proceedings to enforce such order and all prosecutions for any contravention thereof or non-compliance therewith shall be suspended pending the decision of the appeal, and, if such order is set aside on appeal, disobedience thereto shall not be deemed to be an offence. Prosecution to be suspended in certain cases.

227. Every order of forfeiture under section 136, and every order under section 137, section 209, or section 232 shall be subject to appeal to the next superior Court, but shall not be otherwise open to appeal. Appeals from certain Magisterial orders.

Offences and Prosecutions

228. (*1*) Every member of the police establishment shall give immediate information to the Committee of any offence made punishable by or under this Regulation, and shall be bound to assist all members, officers and servants of the Committee in the exercise of their lawful authority. Powers and duties of police in respect of offences against Regulation.

(*2*) Every member of the police establishment may arrest any person committing in his view any offence made punishable by or under this Regulation, if—

(*a*) the name and address of the person are unknown to him, and

(*b*) the person declines to give his name and address, or there is reason to doubt the accuracy of the name and address, if given.

(*3*) A person arrested under this section may be detained until his name and address have been correctly ascertained:

Provided that no person so arrested shall be detained longer than may be necessary for bringing him before a Magistrate except under the order of a Magistrate for his detention.

Authority for prosecutions.

229. Unless otherwise expressly provided, no Court shall take cognizance of any offence made punishable by or under this Regulation except on the complaint of, or upon information received from, the Committee or some person authorised by the Committee in this behalf.

Explanation.—A Committee may authorise persons to make complaints or give information without previous reference to the Committee, either generally in regard to all offences punishable under this Regulation or particularly in regard only to specified offences or offences of a specified class. The person authorised may be authorised by office, if he is the Chairman, Vice-Chairman, Executive Officer or Secretary of the Committee, but in other cases the authority shall be conferred by name. The authority shall in all cases be in writing, and may at any time be cancelled by the Committee.

Power to compound offences.

230. (*1*) A Committee or, with the authorisation of the Committee, the Chairman, Vice-Chairman, Executive Officer or Secretary, or any sub-committee thereof, may accept from any person against whom a reasonable suspicion exists that he has committed an offence made punishable by or under this Regulation a sum of money by way of composition for such offence.

(*2*) On payment of such sum of money, the suspected person, if in custody, shall be discharged, and no further proceedings shall be taken against him in regard to the offence or alleged offence so compounded for.

(*3*) Sums paid by way of composition under this section shall be credited to the municipal fund.

(*4*) Authorisation under sub-section (*1*) to accept composition for alleged offences may be given by the Committee either generally in regard to all offences under this Regulation or particularly in regard only to specified offences or offences of a specified class.

Member not to be disqualified from trying.

231. No Judge or Magistrate shall be deemed to be a party to, or personally interested in, any prosecution for an offence made punishable by or under this Regulation or any other law, within the meaning of section 556 of the Code of Criminal Procedure, 1898, by reason only that V of 1898.

he is a member of the Committee by the order, or under the authority, of which it has been instituted

Power of Magistrate to order payment of costs and damages.

232 Where any person is convicted of an offence made punishable by or under this Regulation, the Magistrate may direct that such costs of the prosecution and such compensation for any damage which may have been caused to any municipal property in the commission of such offence shall be paid by such person, and any sum so ordered to be paid shall be recoverable as if it were a fine

Suits

Suits against Committee or its officers.

233 No suit shall be instituted against a Committee or against any member, officer or servant of a Committee in respect of any act purporting to be done in its or his official capacity, until the expiration of one month next after notice in writing has been in the case of a Committee, delivered or left at its office and in the case of an officer or servant, delivered to him or left at his office or place of abode, stating the cause of action and the name and place of abode of the intending plaintiff, and unless the plaint contains a statement that such notice has been so delivered or left

Provided that nothing in this section shall apply to any suit instituted
877 under section 54 of the Specific Relief Act 1877

Recovery of Municipal Claims

Recovery of taxes and other claims.

234 Any tax, water rate or fee (other than a school fee) and any costs, damages or compensation or other moneys payable to, or claimable or recoverable by, a Committee under this Regulation or any rule or bye law may, after demand has been made therefor in the manner prescribed by rule be recovered on application to a Magistrate having jurisdiction within the limits of the municipality or in any other place where the person by whom the amount is payable may, for the time being, reside, by the distress and sale of any moveable property within the limits of such Magistrate's jurisdiction belonging to such person

Provided that nothing in this section shall prevent the Committee, at its discretion, from suing for the amount payable in any competent Civil Court

Disposal of surplus proceeds of sales

235 If any property moveable or immoveable, is sold under the provisions of this Regulation and there is, after payment of the amount due to the Committee any surplus from the sale proceeds, such surplus shall if the owner of the property sold claims it within six months from the date of the sale, be paid to him by the Committee, but if no such claim is preferred within such time, the said surplus shall be credited to the municipal fund, and no suit shall lie for the recovery thereof

Validity of distraints.

236. No distress or sale made or held under this Regulation shall be deemed unlawful, nor shall any person making or holding the same be deemed a trespasser, on account of any error, defect, or want of form in any bill, notice, schedule, form, notice of demand, warrant of distress, inventory or other proceeding relating thereto if the provisions of this Regulation have been in substance and effect complied with:

Provided that any person aggrieved by any irregularity may recover satisfaction for any damage sustained by him arising therefrom.

CHAPTER XIII.

CONTROL.

Control by Commissioner.

Control by Commissioner.

237. (*1*) The Commissioner may—

(*a*) enter, inspect and survey, or cause to be entered, inspected and surveyed, any immoveable property occupied by any Committee, sub-committee or Joint Committee, or any work in progress under its directions;

(*b*) by order in writing, call for and inspect any book or document in the possession or under the control of any Committee, sub-committee or Joint Committee;

(*c*) by order in writing, require any Committee, sub-committee or Joint Committee to furnish such statements, accounts, reports and copies of documents relating to the proceedings or duties thereof as he may think fit to call for; and

(*d*) record in writing, for the consideration of any Committee, sub-committee or Joint Committee, any observations he may think proper to make in regard to the proceedings or duties thereof.

(*2*) Every Committee shall submit such periodical reports to the Commissioner or other authority as the Chief Commissioner may direct.

Power to suspend ... of Committee.

238. The Commissioner may, by order in writing, suspend the execution of any resolution or order of a Committee, sub-committee or Joint Committee, or prohibit the doing of any act which is about to be done, or is being done, in pursuance of or under cover of this Regulation, or in pursuance of any sanction or permission granted by the Committee in the exercise of its powers under the Regulation, if, in his opinion, the resolution, order or act is in excess of the powers conferred by law, or the execution of the resolution or order, or the doing of the act, is likely to lead to a breach of the peace, or to cause injury or annoyance to the public or to any class or body of persons.

239 (*1*) In cases of emergency the Commissioner may provide for the execution of any work, or the doing of any act, which a Committee is empowered to execute or do, and the immediate execution or doing of which is, in his opinion, necessary for the service or safety of the public, and may direct that the expense of executing the work or of doing the act shall forthwith be paid by the Committee Extraordinary power of Commissioner in cases of emergency

(*2*) If the expense is not so paid, the Commissioner may make an order directing the person having the custody of the balance of the municipal fund to pay the expense or so much thereof as may from time to time be possible from that balance, in priority to all other charges against the same

240 (*1*) When the Commissioner, after due inquiry, is satisfied that a Committee has made default in performing any duty imposed upon it by or under this Regulation, he may, by an order in writing, fix a period for the performance of that duty, and, if it is not performed within the period so fixed, he may appoint some person to perform it and may direct that the expense thereof shall be paid, [illegible] as he may fix, by the Committee Power to provide performance [illegible]

(*2*) If the expense is not so paid, the Com[illegible] order directing the person having the [illegible] municipal fund to pay the expense, or so [illegible] to time be possible, from that bal[illegible] against the same

241 When the Commis[illegible] or section 240, he shall for[illegible] copy thereof, with a state[illegible] such explanation, if a[illegible] Chief Commissioner [illegible]

[illegible]

242 (*1*) The [illegible] under the ord[illegible] that the pro[illegible] for the time [illegible]

(*2*) The [illegible] the perf[illegible] writing [illegible] be in [illegible]

[illegible] power [illegible]

Power of Chief Commissioner to supersede or dissolve a Committee.

243. (*1*) If a Committee is, in the opinion of the Chief Commissioner, incompetent to perform, or persistently makes default in the performance of the duties imposed on it by or under this Regulation or any other enactment, or exceeds or abuses its powers, the Chief Commissioner may, after giving an opportunity to the Committee to show cause why action under this section should not be taken, by a notification setting forth his reasons for taking such action, either—

(*a*) (if the Committee is wholly or partly elected) dissolve it as from such date as may be specified in the notification, or

(*b*) supersede it as from such date, and for such period, as may be specified therein.

(*2*) Where a Committee is dissolved, the members including the Chairman shall vacate their seats on the date fixed for dissolution in the same manner as if their periods of office had expired in the ordinary way on that date (save such members as hold office during the pleasure of the officer appointing them), and members shall be elected or nominated to fill their places in the manner provided in this Regulation.

(*3*) Where a Committee is superseded—

(*a*) all members, including the Chairman, shall, from such date as may be specified in that behalf in the notification, vacate their seats;

(*b*) all powers and duties of the Committee shall, until the Committee is reconstituted, be exercised and performed, subject to the conditions, restrictions and limitations imposed on the Committee by or under this Regulation, by such person or authority as the Chief Commissioner may appoint in that behalf;

(*c*) all property and rights vested in the Committee shall, until the Committee is reconstituted, vest in His Majesty;

(*d*) the person or authority appointed under clause (*b*) and all persons acting under his authority shall be entitled to the same protection, and persons suffering damage from the exercise of the powers of the Committee by the person or authority so appointed shall be entitled to the same relief, as if action had been taken by the Committee:

Provided that the Chief Commissioner may reconstitute the Committee before the expiry of the specified period of supersession.

Disputes between Committees, etc.

244. If any dispute, for the decision of which this Regulation does not otherwise provide, arises between two or more Committees or between any Committee and a District Board or cantonment authority, the matter shall be referred to the Commissioner whose decision shall be final.

CHAPTER XIV

BYE-LAWS AND RULES

Bye-laws

245. A Committee may, by bye-law,— General bye-laws.

(*a*) render licences necessary for the proprietors or drivers of vehicles or animals kept or plying for hire within the limits of the municipality and fix the fees payable for such licences and the conditions on which they shall be granted and may be revoked, and may by such conditions provide among other things for a minimum breadth for wheel tyres and for a minimum diameter of the wheels;

(*b*) limit the rates which may be demanded for the hire of any carriage, cart or other conveyance, or of animals hired to carry loads or persons, or for the services of persons hired to carry loads or to impel or carry such conveyances, and prescribe the loads to be carried by such conveyances, animals or persons when hired within the municipality for a period not exceeding twenty-four hours or for a service which would ordinarily be performed within twenty-four hours:

Provided that no bye-law made under clause (*a*) or clause (*b*) by the Committee of a municipality in which the Hackney Carriage Act, 1879, is in force shall apply to any vehicle to which that Act applies: of 1879

Provided, further, that the operations of any bye-law made under the provisions of clause (*a*) or clause (*b*) or of any rules made under the Hackney Carriage Act, 1879, may, with the sanction of the Chief Commissioner, be extended to— of 1879

(*i*) any railway station;

(*ii*) the whole or any part of any road so far as such road is situate within ten miles of the limits of the municipality;

(*iii*) the whole or any part of any road leading from the limits of the municipality to the limits of another municipality if the distance between the said municipalities does not exceed fifty miles, and the Committees of the said municipalities consent to the extension of such bye-law;

(*c*) provide for the proper registration of births, marriages and deaths, and for the taking of a census;

Power of Chief Commissioner to supersede or dissolve a Committee.

243. (*1*) If a Committee is, in the opinion of the Chief Commissioner, incompetent to perform, or persistently makes default in the performance of the duties imposed on it by or under this Regulation or any other enactment, or exceeds or abuses its powers, the Chief Commissioner may, after giving an opportunity to the Committee to show cause why action under this section should not be taken, by a notification setting forth his reasons for taking such action, either—

(*a*) (if the Committee is wholly or partly elected) dissolve it as from such date as may be specified in the notification, or

(*b*) supersede it as from such date, and for such period, as may be specified therein.

(*2*) Where a Committee is dissolved, the members including the Chairman shall vacate their seats on the date fixed for dissolution in the same manner as if their periods of office had expired in the ordinary way on that date (save such members as hold office during the pleasure of the officer appointing them), and members shall be elected or nominated to fill their places in the manner provided in this Regulation.

(*3*) Where a Committee is superseded—

(*a*) all members, including the Chairman, shall, from such date as may be specified in that behalf in the notification, vacate their seats;

(*b*) all powers and duties of the Committee shall, until the Committee is reconstituted, be exercised and performed, subject to the conditions, restrictions and limitations imposed on the Committee by or under this Regulation, by such person or authority as the Chief Commissioner may appoint in that behalf;

(*c*) all property and rights vested in the Committee shall, until the Committee is reconstituted, vest in His Majesty;

(*d*) the person or authority appointed under clause (*b*) and all persons acting under his authority shall be entitled to the same protection, and persons suffering damage from the exercise of the powers of the Committee by the person or authority so appointed shall be entitled to the same relief, as if action had been taken by the Committee:

Provided that the Chief Commissioner may reconstitute the Committee before the expiry of the specified period of supersession.

Disputes between Committees, etc.

244. If any dispute, for the decision of which this Regulation does not otherwise provide, arises between two or more Committees or between any Committee and a District Board or cantonment authority, the matter shall be referred to the Commissioner whose decision shall be final.

CHAPTER XIV

Bye-laws and Rules

Bye-laws

General bye-laws.

245. A Committee may, by bye-law,—

(*a*) render licences necessary for the proprietors or drivers of vehicles or animals kept or plying for hire within the limits of the municipality, and fix the fees payable for such licences and the conditions on which they shall be granted and may be revoked, and may by such conditions provide among other things for a minimum breadth for wheel tyres and for a minimum diameter of the wheels,

(*b*) limit the rates which may be demanded for the hire of any carriage, cart or other conveyance, or of animals hired to carry loads or persons, or for the services of persons hired to carry loads or to impel or carry such conveyances, and prescribe the loads to be carried by such conveyances, animals or persons when hired within the municipality for a period not exceeding twenty-four hours, or for a service which would ordinarily be performed within twenty-four hours

XIV of 1879. Provided that no bye law made under clause (*a*) or clause (*b*) by the Committee of a municipality in which the Hackney Carriage Act, 1879, is in force shall apply to any vehicle to which that Act applies

XIV of 1879. Provided, further, that the operations of any bye law made under the provisions of clause (*a*) or clause (*b*) or of any rules made under the Hackney Carriage Act, 1879, may, with the sanction of the Chief Commissioner, be extended to—

(*i*) any railway station,

(*ii*) the whole or any part of any road so far as such road is situate within ten miles of the limits of the municipality,

(*iii*) the whole or any part of any road leading from the limits of the municipality to the limits of another municipality if the distance between the said municipalities does not exceed fifty miles, and the Committees of the said municipalities consent to the extension of such bye law,

(*c*) provide for the proper registration of births, marriages and deaths and for the taking of a census;

(*d*) fix, and from time to time vary, the number of persons who may occupy a building, or part of a building, which is let in lodgings or occupied by members of more than one family, or which is situated within such congested areas as may be specified in the bye-law; and provide—

(*i*) for the registration and inspection of such buildings,

(*ii*) for promoting cleanliness and ventilation in such buildings,

(*iii*) for the notices to be given and the precautions to be taken in the case of any infectious or contagious disease breaking out in such buildings,

(*iv*) in the case of hotels, serais, lodging houses and residential clubs, for the maintenance of registers, in such form as the Committee may prescribe, of visitors and lodgers, and

(*v*) generally for the proper regulation of such buildings;

(*e*) provide—

(*i*) for the inspection and proper regulation of encamping-grounds, pounds, serais, bakeries, ærated-water factories, ice factories, dhobies' ghats, flour-mills and slaughter-houses;

(*ii*) for the inspection and proper regulation of markets, for the preparation and exhibition of a list of current prices, and for fixing the fees, rents and other charges to be levied in such markets;

(*iii*) for defining the standard weights and measures to be used in the municipality and for the inspection of weights and measures under section 207;

(*iv*) for the holding of fairs and industrial exhibitions within the municipality or under the control of the Committee, and for the collection of fees under section 166;

(*v*) for controlling and regulating the use and management of burial and burning grounds;

(*vi*) for the supervision, regulation and protection from pollution of public wells, tanks, springs or other sources from which water is or may be made available for the use of the public, whether within or without the municipality;

(*f*) require and regulate the appointment by owners of buildings or land in the municipality, who are not resident in the municipality, of persons residing within or near the

municipality to act as their agents for all or any of the purposes of this Regulation,

(*g*) where the collection of an octroi or terminal tax has been sanctioned, fix octroi or terminal tax limits for the purpose of collecting the same, and prescribe routes by which goods or animals or both which are subject to octroi or terminal tax may be brought into the municipality,

(*h*) render licences necessary for using premises as stables cow houses, or houses or enclosures for sheep or goats,

(*i*) in any municipality where a reasonable number of slaughter-houses has been provided or licensed by the Committee, control, regulate or prohibit the admission within the municipality for the purpose of sale of the flesh (other than cured or preserved meat) of any cattle, sheep, goat or swine slaughtered at any slaughter-house or place not maintained or licensed under this Regulation, and provide for the seizure, destruction or disposal otherwise of any flesh brought within municipal limits in contravention of any such bye law,

(*j*) fix premises in which the slaughter of animals of any particular kind, otherwise than for sale, shall be permitted, and prohibit, except in case of necessity, such slaughter elsewhere

Provided that no such bye laws shall apply to animals slaughtered for any religious purpose,

(*k*) prohibit the letting off of fire-arms, fire-works, fire-balloons, bombs or detonators except—

(*i*) with the permission of the Committee or of an officer of the Committee empowered to give such permission,

(*ii*) subject to such conditions as the Committee may impose, and

(*iii*) on payment of such fees (if any) as may at any time have been fixed by the Committee in that behalf,

(*l*) regulate the making and use of connections or communications between private houses and premises and mains or service cables, wires, pipes, drains, sewers and other channels established or maintained by the Committee under any of the provisions of this Regulation,

(*m*) regulate the posting of bills and advertisements and the [illegible] size, [illegible] style of name-boards, sign boards

(*n*) provide for and regulate the construction and maintenance of boundary walls, hedges and fences hereafter erected or re-erected so as to abut on a public street or upon property vested in the Committee;

(*o*) regulate or prohibit any description of traffic in the streets;

(*p*) prohibit the storage of more than a fixed maximum quantity of any explosive, petroleum, spirit, naphtha or other inflammable material in any building not licensed under section 161;

(*q*) provide for the seizure and confiscation of ownerless animals straying within the municipality;

(*r*) provide for the registration of all or any specified classes of dogs, and in particular and without prejudice to the generality of the foregoing,—

(*i*) provide for the imposition of an annual fee for such registration;

(*ii*) require that every registered dog shall wear a collar to which shall be attached a metal token to be issued by the Committee;

(*iii*) provide that any dog, not registered and not wearing such token, may, if found in any public place, be detained at a place to be set apart for the purpose, and shall be liable to be destroyed or otherwise disposed of after such period as may be specified in the bye-law;

(*s*) generally provide for carrying out the purposes of this Regulation.

Provisions relating to bye-laws.

246. (*1*) Any power to make bye-laws conferred by this Regulation is conferred subject to the bye-laws being made after previous publication.

(*2*) In making any bye-law, the Committee may direct that a breach thereof shall be punishable with fine which may extend to fifty rupees, and, in the case of a continuing breach, with a further fine which may extend to five rupees for every day after the first during which the breach continues:

Provided that in lieu of, or in addition to inflicting such fine, the Magistrate may require the offender to remedy the mischief so far as is within his power.

(*3*) No bye-law shall come into force until it has been confirmed by the Chief Commissioner and published for such time and in such manner as the Chief Commissioner may prescribe in this behalf.

(4) The Chief Commissioner may cancel his confirmation of any such bye-law, and thereupon the bye law shall cease to have effect

(5) A copy of all bye-laws shall be kept at the office of the Committee and shall be open during office hours without charge to the inspection of any inhabitant of the municipality

(6) Copies of all such bye-laws shall be kept at the said office for sale to the public at a price not exceeding one rupee

Rules

247 The Chief Commissioner may prescribe forms for any proceeding of Committees for which he considers that a form should be provided, and may, by notification make rules consistent with this Regulation to provide for all or any of the following matters namely — Power of Chief Commissioner to frame forms and make rules.

(a) the qualifications requisite in the case of persons appointed by a Committee to offices requiring professional skill

(b) the authority on which money may be paid from the municipal fund and the management and regulation of provident funds established under section 24,

(c) the formation and working of municipal fire brigades

(d) the procedure to be observed for the appointment, punishment or dismissal of officers and servants of Committees, and as to appeals from orders of appointment punishment or dismissal,

(e) the conditions on which property may be acquired by a Committee or on which property vested in a Committee may be transferred by sale, mortgage lease exchange or otherwise,

(f) the intermediate office or offices, if any through which correspondence between Committees or members and the Chief Commissioner or his officers shall pass,

(g) the preparation of plans and estimates for works to be partly or wholly constructed at the expense of Committees and the persons by whom and the conditions subject to which, such plans and estimates are to be sanctioned

(h) the assessment and collection and the composition refund or the limiting of refunds of taxes imposed under this Regulation, and the prevention of evasion of the same the fees payable for notices of demand

(i) the conditions on which a Committee may receive a bonded warehouse and the agreements to [illegible] traders or others wishing to de[illegible] th[illegible]

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(*o*) regulate or prohibit any description of traffic in the streets;

(*p*) prohibit the storage of more than a fixed maximum quantity of any explosive, petroleum, spirit, naphtha or other inflammable material in any building not licensed under section 161;

(*q*) provide for the seizure and confiscation of ownerless animals straying within the municipality;

(*r*) provide for the registration of all or any specified classes of dogs, and in particular and without prejudice to the generality of the foregoing,—

(*i*) provide for the imposition of an annual fee for such registration;

(*ii*) require that every registered dog shall wear a collar to which shall be attached a metal token to be issued by the Committee;

(*iii*) provide that any dog, not registered and not wearing such token, may, if found in any public place, be detained at a place to be set apart for the purpose, and shall be liable to be destroyed or otherwise disposed of after such period as may be specified in the bye-law;

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(b) the authority on which money may be paid from the municipal fund and the management and regulation of provident funds established under section 24,

(c) the formation and working of municipal fire brigades

(d) the procedure to be observed for the appointment, punishment or dismissal of officers and servants of Committees and as to appeals from orders of appointment punishment or dismissal,

(e) the conditions on which property may be acquired by a Committee or on which property vested in a Committee may be transferred by sale mortgage lease exchange or otherwise,

(f) the intermediate office or offices if any through which correspondence between Committees or members and the Chief Commissioner or his officers shall pass

(g) the preparation of plans and estimates for works to be partly or wholly constructed at the expense of Committees and the persons by whom and the conditions subject to which, such plans and estimates are to be sanctioned

(h) the assessment and collection and the composition refund or the limiting of refunds of taxes imposed under this Regulation and the prevention of evasion of the same and the fees payable for notices of demand,

(i) the conditions on which a Committee may receive goods into a bonded-warehouse and the agreements to be executed by traders or others wishing to deposit goods therein,

(*4*) The Chief Commissioner may cancel his confirmation of any such bye-law, and thereupon the bye law shall cease to have effect

(*5*) A copy of all bye laws shall be kept at the office of the Committee and shall be open during office hours without charge to the inspection of any inhabitant of the municipality

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(*h*) the assessment and collection and the composition refund or the limiting of refunds of taxes imposed under this Regulation and the prevention of evasion of the same and the fees payable for notices of demand

(*i*) the conditions on which a Committee may receive goods into a bonded warehouse and the agreements to be signed by traders or others wishing to deposit goods therein,

(*j*) the accounts to be kept by Committees, the conditions on which such accounts are to be open to inspection by inhabitants paying any tax under this Regulation, the manner in which such accounts are to be audited and published, and the power of the auditors in respect of disallowance and surcharge;

(*k*) the returns, statements and reports to be submitted by Committees;

(*l*) the powers to be exercised by the Commissioner under section 242;

(*m*) the language in which business shall be transacted, proceedings recorded and notices issued;

(*n*) the publication of notices;

(*o*) the regulation of the proceedings of persons empowered to accept composition under section 230 for alleged offences;

(*p*) the maintenance, control and regulation of water works and supply of water; and

(*q*) generally the guidance of Committees and public officers in carrying out the purposes of this Regulation.

Provisions relating to rules.

248. (*1*) In making rules, the Chief Commissioner may direct that a breach of any provision thereof shall be punishable with fine which may extend to fifty rupees.

(*2*) All rules shall be made after previous publication.

(*3*) A rule may be general for all municipalities, or for all municipalities not expressly excepted from its operation, or may be special for the whole or any part of any one or more municipalities, as the Chief Commissioner directs.

(*4*) On publication in the official Gazette of any rules made under this Regulation, such rules shall have effect as if enacted in this Regulation.

CHAPTER XV.

SUPPLEMENTARY.

Vacancies and irregularities not to invalidate proceedings.

249. No act done or proceeding taken under this Regulation shall be questioned on the ground merely of the existence of any vacancy in any Committee, sub-committee or joint committee, or on account of any defect or irregularity not affecting the merits of the case.

250. (*1*) A copy of any receipt, application, plan, notice order, entry in a register or other document in the possession of a Committee shall, if duly certified by the legal keeper thereof or other person authorised by bye-law in this behalf, be received as evidence of the existence of the entry or document and of the matters or transactions therein recorded in every case where, and to the same extent as, the original entry or document would, if produced, have been admissible to prove such matters. **Proof of municipal records.**

(*2*) No officer or servant of a Committee shall in any legal proceedings to which the Committee is not a party be required to produce any register or document the contents of which can be proved under sub-section (*1*) by a certified copy or to appear as a witness to prove the matters or transactions recorded therein, unless by order of the Court made for special cause.

251. (*1*) If the circumstances of any municipality are such that, in the opinion of the Chief Commissioner, any of the provisions of this Regulation are unsuited thereto the Chief Commissioner may, by notification, except the municipality or any part of it from the operation of all or any of the said provisions, and thereupon those provisions shall not apply to the municipality until applied thereto by notification. **Power to except municipality from provisions of Regulations unsuited thereto.**

(*2*) While such exception as aforesaid remains in force, the Chief Commissioner may, by notification and after previous publication, make rules for the guidance of the Committee and public officers in respect of the matters excepted from the operation of the said provisions.

THE SCHEDULE

[*See section 2.*]

REGULATIONS REPEALED

Year	No.	Subject or short title	Extent of repeal
1	2	3	4
1886	V	The Ajmer Municipalities Regulation, 1886	The whole Regulation.
1893	IX	The Ajmer Amending Regulation, 1893	So much as relates to the Ajmer Municipalities Regulation, 1886.
1905	I	The Ajmer Municipalities (Amendment) Regulation, 1905	The whole Regulation.
1914	II	The Ajmer Repealing and Amending Regulation, 1914	So much as relates to the Ajmer Municipalities Regulation, 1886.

(*j*) the accounts to be kept by Committees, the conditions on which such accounts are to be open to inspection by inhabitants paying any tax under this Regulation, the manner in which such accounts are to be audited and published, and the power of the auditors in respect of disallowance and surcharge;

(*k*) the returns, statements and reports to be submitted by Committees;

(*l*) the powers to be exercised by the Commissioner under section 242;

(*m*) the language in which business shall be transacted, proceedings recorded and notices issued;

(*n*) the publication of notices;

(*o*) the regulation of the proceedings of persons empowered to accept composition under section 230 for alleged offences;

(*p*) the maintenance, control and regulation of water works and supply of water; and

(*q*) generally the guidance of Committees and public officers in carrying out the purposes of this Regulation.

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(*2*) While such exception as aforesaid remains in force, the Chief Commissioner may, by notification and after previous publication, make rules for the guidance of the Committee and public officers in respect of the matters excepted from the operation of the said provisions

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THE SCHEDULE

[*See section 2*]

REGULATIONS REPEALED

Year	No	Subject or short title	Extent of repeal
1	2	3	4
1886	V	The Ajmer Municipalities Regulation, 1886	The whole Regulation
1893	IX	The Ajmer Amending Regulation 1893	So much as relates to the Ajmer Municipalities Regulation, 1886
1905	I	The Ajmer Municipalities (Amendment) Regulation 1905	The whole Regulation
1914	II	The Ajmer Repealing and Amending Regulation 1914	So much as relates to the Ajmer Municipalities Regulation, 1886

REGULATION No. V OF 1926.

[THE AJMERE RURAL BOARDS (AMENDMENT) REGULATION, 1926.]

(Received the assent of the Governor General on the 13th May, 1926; and published in the Gazette of India on the 22nd May, 1926.)

A Regulation further to amend the Ajmere Rural Boards Regulation, 1886.

WHEREAS it is expedient further to amend the Ajmere Rural Boards Regulation, 1886; It is hereby enacted as follows:— VI o

Short title and commencement.

1. *(1)* This Regulation may be called the Ajmere Rural Boards (Amendment) Regulation, 1926.

(2) It shall come into force on the first day of January, 1927.

Amendment of section 2, Regulation VI of 1886.

2. In sub-section *(1)* of section 2 of the Ajmere Rural Boards Regulation, 1886, for the words "three pies" the words "four and a half pies" shall be substituted. VI o

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REGULATION No. IX OF 1926.

(THE AJMER COURTS REGULATION, 1926.)

[Received the assent of the Governor General on the 29th September, 1926; and published in the Gazette of India on the 2nd October, 1926.]

A Regulation to consolidate and amend the law relating to the administration of civil and criminal justice in Ajmer-Merwara.

WHEREAS it is expedient to consolidate and amend the law relating to the administration of civil and criminal justice in Ajmer-Merwara; It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

Short title, extent and commencement.

1. *(1)* This Regulation may be called the Ajmer Courts Regulation, 1926.

(2) It extends to the territories (in this Regulation referred to as Ajmer-Merwara) for the time being administered by the Chief Commissioner of Ajmer-Merwara.

(3) It shall come into force on such date[1] as the Chief Commissioner, with the previous sanction of the Governor General in Council may, by notification in the Gazette of India, appoint

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CHAPTER II

ADMINISTRATION OF CIVIL JUSTICE

General

2 For the purposes of the administration of civil justice Ajmer-Merwara shall be a single district, and there shall be five grades of Civil Courts therein, namely — Grades of Courts

(a) the Courts of the Judicial Commissioner,

(b) the Courts of the District Judge and the Additional District Judge,

(c) the Courts of Subordinate Judges of the first class,

(d) the Courts of Subordinate Judges of the second class, and

(e) the Courts of Munsifs

3 (1) The Judicial Commissioner shall be appointed by the Governor General in Council The Judicial Commissioner

(2) The Court of the Judicial Commissioner shall, for the purposes of all enactments for the time being in force be deemed to be the highest Civil Court of appeal in Ajmer-Merwara

4 The Commissioner shall if no other person has been appointed by the Governor General in Council to be the District Judge, be the District Judge for the purposes of this Regulation The District Judge

5. The Chief Commissioner may, with the previous sanction of the Governor General in Council, appoint an Additional Commissioner who shall have such of the powers and be competent to perform such of the duties of the Commissioner under this Regulation as the Chief Commissioner may direct Appointment of an Additional Commissioner

6 The Chief Commissioner may appoint any person to be an Additional District Judge and to exercise such of the powers and perform such of the duties of the District Judge as the Chief Commissioner may direct, and the Court of the Additional District Judge shall, as regards the exercise of those powers and the performance of those duties, be deemed to be the Court of the District Judge for the purposes of this Regulation Appointment of an Additional District Judge

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[1] The 1st January 1927 *see* Notification No 2055-C-87 dated the 23rd December 1926 *Gazette of India* 1927, Pt II-A, p 10

Appointment of Subordinate Judges and Munsiffs.

7. The Chief Commissioner may appoint as many persons as he thinks fit to be Subordinate Judges of the first or of the second class, or Munsiffs, and may define the local limits of their respective jurisdictions.

Original Jurisdiction.

Court of the District Judge.

8. (*1*) The Court of the District Judge shall, for the purposes of all enactments for the time being in force in Ajmer-Merwara, be the principal Civil Court of original Jurisdiction for the district.

(*2*) In original suits cognizable under the Code of Civil Procedure, 1908, the jurisdiction of the District Judge shall, as regards the amount or value of the subject-matter, be without limit. V of 1908.

Extent of jurisdiction of other Courts.

9. (*1*) The jurisdiction of a Subordinate Judge of the first class shall extend to all original suits cognizable under the Code of Civil Procedure, 1908, in which the amount or value of the subject-matter does not exceed ten thousand rupees: V of 1908.

Provided that the Chief Commissioner may, by order in writing, extend the jurisdiction of any Subordinate Judge to all such suits without limit of amount or value.

(*2*) The jurisdiction of a Subordinate Judge of the second class shall extend to all such suits in which the amount or value of the subject-matter does not exceed five thousand rupees.

(*3*) The jurisdiction of a Munsiff shall extend to all such suits in which the amount or value of the subject-matter does not exceed one hundred rupees.

Subordinate Judge of the first class may be invested with powers of District Court.

10. In addition to the jurisdiction specified in section 9, a Subordinate Judge of the first class may exercise such of the powers conferred by any enactment for the time being in force on a principal Civil Court of original jurisdiction as may be delegated to him by the District Judge.

Subordinate Judge may be invested with the powers of a Small Cause Court.

11. (*1*) The Chief Commissioner may invest any Subordinate Judge with the powers of a Judge of a Court of Small Causes, and may define the local limits within which such powers shall be exercised.

(*2*) A Subordinate Judge invested with the powers of a Judge of a Court of Small Causes under this section may, in addition to such powers, exercise any other civil jurisdiction conferred on him by or under this Regulation, or any other law for the time being in force in Ajmer-Merwara.

(*3*) The Court of a Subordinate Judge exercising the powers of a Court of Small Causes shall be deemed to be a Court of Small Causes constituted under the Provincial Small Cause Courts Act, 1887, and, IX of 1887.

save as otherwise provided by this Regulation, shall be subject to all the provisions of that Act in so far as they are applicable

Appeals

Appeals from Courts of original jurisdiction.

12 When by any law for the time being in force an appeal is allowed from any decree or order passed or made by a Civil Court of original jurisdiction, and no provision applicable to Ajmer Merwara is made by such law for determining the Court to which such appeal shall lie such appeal shall lie as follows namely —

(a) When such decree or order is passed or made by a Munsiff to a Subordinate Judge of the first class specially empowered by the Chief Commissioner in this behalf,

(b) when such decree or order is passed or made by a Subordinate Judge and the amount or value of the subject-matter is less than five thousand rupees to the District Judge, and

(c) when such decree or order is passed or made by a Subordinate Judge and the amount or value of the subject-matter exceeds five thousand rupees, or is passed or made by the District Judge or Additional District Judge, to the Judicial Commissioner

No second appeal in certain cases

13 When any appeal is decided by the District Judge or a Subordinate Judge under section 12 in a suit which is of such a nature as to be cognizable by a Court of Small Causes, then, if the value of the suit does not exceed five hundred rupees, or if, in the case of a suit of any higher value, the parties agree that this section shall be applicable, the decision of the District Judge or of the Subordinate Judge, as the case may be, shall be final

Second appeals in other cases.

14 Save where otherwise provided in this Regulation or by any other law for the time being in force, a second appeal on any of the grounds indicated in section 100 of the Code of Civil Procedure, 1908, shall lie to the Judicial Commissioner

Period of limitation

15 (1) The period of limitation for an appeal under section 12, section 13 or section 14 shall run from the date of the decree, order or decision appealed against, and shall be as follows, namely —

(a) When the appeal lies to a Subordinate Judge, thirty days,

(b) when the appeal lies to the District Judge, sixty days,

(c) when the appeal lies to the Judicial Commissioner, ninety days

(2) Save as provided by sub-section (1), all the provisions of the Indian Limitation Act, 1908, shall be applicable to all appeals under this Regulation

Miscellaneous.

Control over Subordinate Courts.

16. *(1)* The general control over all the Courts of the three lower grades shall be vested in the District Judge, subject to the superintendence of the Judicial Commissioner.

(2) The general control over the Court of the District Judge and of the Additional District Judge shall be vested in the Judicial Commissioner.

Appointment of ministerial staff of Judicial Commissioner's Court.

17. The Judicial Commissioner may appoint such persons as ministerial officers of his Court as he thinks fit.

Appointment of Clerk of the Court.

18. The Judicial Commissioner may appoint to any Court constituted under this Regulation a Clerk of the Court who, in addition to such other duties as may be entrusted to him by the Judicial Commissioner, may receive and register plaints, appeals and applications, and may sign all processes and authenticate copies of papers, judgments and decrees.

Power to distribute judicial business.

19. Subject to the provisions of this Regulation and of all other enactments for the time being in force, and subject to the control of the Judicial Commissioner, the District Judge may distribute civil judicial business among the Courts of the three lower grades in such manner as he thinks fit.

Power to withdraw suit and try it or refer it to other Court.

20. *(1)* The Judicial Commissioner may withdraw any suit or appeal pending in any Court, and may try such suit or appeal himself or refer it for trial to any other Court competent to try the same.

(2) The District Judge may exercise the like power in respect of suits pending in any Court subject to his control, and may empower any Subordinate Judge of the first class to exercise a like power in respect of suits pending in the Court of any other Subordinate Judge or of any Munsiff.

Recognised agents.

21. In addition to the persons mentioned in Order III, rule 2, of Schedule I to the Code of Civil Procedure, 1908, the following shall be deemed to be recognised agents for the purposes of that Order:— V of 1908.

(a) A party's relation, partner, servant or friend especially empowered to act, and permitted by the Court to act, as such agent;

(b) a person especially empowered to act as such agent by any of the Istimrardars and Jagirdars whose names are included in the Schedule to the Ajmer Taluqdars' Relief Regulation, 1872; IV of 1872.

(c) a vakil or other person authorised by any Prince or Chief to act for him, and

(d) any advocate, pleader or attorney enrolled under rules made **by the Judicial Commissioner with the sanction of the Chief** Commissioner

22 The Chief Commissioner may direct that in any class of suits between landlord and tenant in agricultural villages the evidence may be taken in the form prescribed by rule 13 of Order XVIII in the First Schedule to the Code of Civil Procedure 1908 for cases in which an appeal does not lie to a higher tribunal

Mode of recording of evidence in certain cases

23 (1) No Judge appointed under this Regulation shall try any suit or other proceeding to which he is a party or in which he has any personal interest and no such Judge shall hear an appeal from any decree or order passed or made by himself in another capacity

Procedure when Judge has interest in suit

(2) When any suit appeal or other proceeding comes before any Judge who is prevented by the provisions of sub section (1) from trying the same the Judge shall make a report to the Judicial Commissioner who may thereupon take such action under section 20 or under any other enactment for the time being in force as he thinks fit

24 In addition to such property as is exempted by or under section 60 or section 61 of the Code of Civil Procedure, 1908 from attachment and sale in execution of a decree land and wells not being situated within the inhabited limits of a town or village shall also be so exempted

Property exempted from attachment and sale

25 Save as provided by this Regulation or by any other enactment for the time being in force the provisions of the Code of Civil Procedure 1908 so far as the same may be applicable, shall apply to all suits, appeals and other proceedings in the Civil Courts

Code of Civil Procedure 1908, to apply

Special provisions for the hearing of suits involving questions regarding succession to the Estates of Taluqdars, Thakurs and Jagirdars

26 Notwithstanding anything hereinbefore contained in this Regulation no suit in which any question regarding a right to inherit as heir by birth or adoption, or to succeed by any other title to the estates of any of the Taluqdars Thakurs or Jagirdars entered in the Schedule to the Ajmer Taluqdars' Relief Regulation, 1872, is directly and substantially in issue shall be heard by any Court of a lower grade than that of a Subordinate Judge of the first class

Certain suits not to be heard in Court of lower grade than that of first class Subordinate Judge

CHAPTER III.

ADMINISTRATION OF CRIMINAL JUSTICE.

Judicial Commissioner to discharge functions of High Court.

27. Save in reference to proceedings against European British subjects, or persons jointly charged with European British subjects, the Judicial Commissioner shall be the High Court for the purposes of the Code of Criminal Procedure, 1898. V of 1898.

Commissioner to be District Magistrate and Sessions Judge.

28. (*1*) The Commissioner shall be the District Magistrate.

(*2*) The Commissioner shall, if no other person is appointed in this behalf by the Governor General in Council, be the Sessions Judge.

(*3*) All orders passed by the Commissioner as District Magistrate shall, in cases where an appeal lies, be appealable to the Judicial Commissioner, notwithstanding anything in the Code of Criminal Procedure, 1898, to the contrary. V of 1898.

Additional Sessions Judge.

29. The Chief Commissioner may appoint an Additional District Judge to be an Additional Sessions Judge and to exercise such of the powers and perform such of the duties of the Sessions Judge as the Chief Commissioner may direct.

30. [*Repeals.*] *Repealed by Act XII of 1927.*

[THE SCHEDULE.]

Repealed by Act XII of 1927.

REGULATION No. II OF 1928.

[THE AJMER-MERWARA REDEMPTION OF MORTGAGES REGULATION, 1928.]

[*Received the assent of the Governor General on the 27th January, 1928; and published in the Gazette of India on the 4th February, 1928.*]

A Regulation to provide a summary procedure for the redemption of certain mortgages of land in the District of Ajmer-Merwara.

WHEREAS it is expedient to provide a summary procedure for the redemption of certain mortgages of land in the District of Ajmer-Merwara; It is hereby enacted as follows:—

Short title, extent and application.

1. (*1*) This Regulation may be called the Ajmer-Merwara Redemption of Mortgages Regulation, 1928.

(*2*) It extends to all the territories for the time being administered by the Chief Commissioner of Ajmer-Merwara

(*3*) It applies only to mortgages of land in which—

(*a*) whatever may be the amount of the mortgage money, the area of the land mortgaged, after excluding the area of any share in the common land of the village or of a sub-division of the village appertaining thereto and mortgaged therewith, does not exceed 30 acres, or

(*b*) whatever may be the area of the land mortgaged, the principal secured under the mortgage does not exceed one thousand rupees

Provided that it shall not apply to any mortgage made after the date on which the Ajmer Alienation of Land Regulation, 1914 came into force

2 In this Regulation, unless there is anything repugnant in the subject or context,— Definitions.

(*1*) " Collector ' means the Collector of Ajmer Merwara, and includes any Revenue officer appointed by the Chief Commissioner to exercise the powers of the Collector under this Regulation,

(*2*) " land " means land which is not occupied as the site of any building in a town or village and is occupied or let for agricultural purposes or for purposes subservient to agriculture or for pasture, and includes—

(*a*) the sites of buildings and other structures on such land,

(*b*) a share in the profits of an estate or holding,

(*c*) any dues or any fixed percentage of the land revenue payable by an inferior land owner to a superior land owner

(*d*) a right to receive rent,

(*e*) any right to water enjoyed by the owner or the occupier of land as such, and

(*f*) any right of occupancy, and

(*3*) " prescribed " means prescribed by rules made under this Regulation

3 Subject to the provisions of this Regulation and any rules made thereunder, in proceedings before the Collector under this Regulation, the following matters shall be regulated by the rules for the time being in force under clauses (*d*) and (*f*) of section 110 of the Ajmer Land and Revenue Regulation, 1877, in so far as they are applicable— Application of certain rules made under Regulation II of 1877

(*a*) the procedure for compelling the attendance of parties and witnesses;

(*b*) the fees to be charged for service of processes;

(*c*) the issue of Commissions:

(*d*) the production, rejection and admission of documents; and

(*e*) the awarding of costs.

Prohibition of appearance of legal practitioners.

4. No legal practitioner shall appear on behalf of any party interested in any proceeding before the Collector under this Regulation.

Petition for redemption.

5. (*1*) The mortgagor or other person entitled to institute a suit for redemption may, at any time after the principal money becomes payable and before a suit for redemption is barred, present a petition to the Collector applying for an order directing that his mortgage be redeemed, and, where the mortgage is with possession, that he be put in possession of the mortgaged property.

Verification of petition.

(*2*) The petition shall be duly verified in the manner provided by law for the verification of plaints, and shall state the sum which the petitioner declares to the best of his belief to be due under the mortgage.

Deposit.

(*3*) The petitioner shall at the same time deposit such sum with the Collector.

Particulars to be contained in petition.

(*4*) The petitioner shall state in his petition such particulars and file therewith such documents as may be prescribed.

Mortgagee to be summoned.

6. When the petition has been duly presented and the deposit of the sum mentioned in section 5 has been made, the Collector shall issue to the mortgagee a summons to appear on a date to be therein specified. Every summons shall be accompanied by a copy of the petition, with the date of deposit endorsed thereon.

Procedure when petitioner is absent and mortgagee present.

7. If the mortgagee appears and the petitioner does not appear when the petition is called on for hearing, the Collector shall—

(*a*) if the mortgagee does not admit the claim—

(*i*) make an order that the petition be dismissed, or

(*ii*) if he finds sufficient reason, adjourn the proceedings;

(*b*) if the mortgagee admits the claim, make an order—

(*i*) that the mortgage be redeemed;

(*ii*) if the mortgage is with possession, that the mortgagor be put in possession of the mortgaged property as against the mortgagee;

(*iii*) that the mortgagee deposit with the Collector the mortgage-deed, if any, if then in his possession or power, and that it be delivered to the petitioner; and

(*iv*) that, subject to the mortgage-deed, if any, being so deposited by the mortgagee, the sum in deposit be paid to him:

Provided that no such order shall be made inconsistent with any condition of the mortgage whereby a season or period of the year is fixed for redemption or for surrendering possession

8 (*1*) If the petitioner appears, but the mortgagee does not appear, when the petition is called on for hearing, the Collector shall, unless he adjourns the proceedings, inquire in a summary manner—

Procedure when the petitioner is present and mortgagee absent.

(*a*) whether the petitioner is entitled to redeem the mortgaged property, and

(*b*) whether the sum deposited by the petitioner is the sum rightly due under the mortgage

(*2*) If the Collector is not satisfied that the petitioner is entitled to redeem he shall dismiss the petition

(*3*) If the Collector is satisfied that the petitioner is entitled to redeem, and that the sum deposited is the sum rightly due under the mortgage he shall make an order as laid down in clause (*b*) of section 7

(*4*) If the Collector is satisfied that the petitioner is entitled to redeem, but is of opinion that a sum larger than that in deposit is due under the mortgage, he shall fix a period not exceeding thirty days within which the petitioner shall deposit the difference together with any further sum which may be due on account of interest up to the date of such deposit If the petitioner makes such deposit within such period or such further period not exceeding thirty days as the Collector may fix the Collector shall make an order as laid down in clause (*b*) of section 7

(*5*) If the petitioner fails to make such deposit within the period fixed, the Collector shall dismiss the petition

9 (*1*) If both parties appear when the petition is called on for hearing, the Collector shall inquire from the mortgagee whether he admits that the petitioner is entitled to redeem, whether he is willing to accept the sum in deposit in full discharge of the mortgage debt and where the mortgage is with possession whether he is willing to surrender possession of the mortgaged property

Procedure when both parties are in attendance order for redemption

(*2*) If the mortgagee replies in the affirmative, the Collector shall make an order as laid down in clause (*b*) of section 7

(*3*) If the mortgagee admits the petitioner's right to redeem, but demands payment of a sum larger than that in deposit, the Collector shall inquire from the petitioner whether he is willing to pay such larger sum, and if he replies in the affirmative, the Collector shall fix a period not exceeding thirty days within which the petitioner shall deposit the difference, together with any further sum which may be due on account of interest up to the date of such deposit If the petitioner makes such deposit within such period or such further period not exceeding thirty

days as the Collector may fix, the Collector shall make an order as laid down in clause (*b*) of section 7.

(*4*) If the petitioner fails to make such deposit within the period fixed, the Collector shall dismiss the petition.

Procedure in contentious cases.

10. If the mortgagee raises objection on any ground other than the amount of the deposit, or if the petitioner is not willing to pay the sum demanded by the mortgagee, the Collector may either—

(*a*) for reasons to be recorded dismiss the petition, or

(*b*) make a summary inquiry,

regarding the objection raised by the mortgagee or regarding the sum due.

Inquiry into objection raised by the mortgagee.

11. If on inquiry regarding any objection so raised by the mortgagee the Collector is of opinion that redemption is barred or that there is sufficient cause for not proceeding further with the petition, he shall dismiss the petition; but if he is not of that opinion, he shall, unless he dismisses the petition under section 12, make an order as laid down in clause (*b*) of section 7.

Inquiry regarding sum due.

12. (*1*) If on inquiry regarding the sum due the Collector is of opinion that the sum deposited is the sum rightly due under the mortgage, he shall, unless he dismisses the petition under section 11, make an order as laid down in clause (*b*) of section 7; but if he is of opinion that a sum larger than the sum deposited should be paid by the petitioner, he shall, unless he dismisses the petition under section 11, fix a period not exceeding thirty days within which the petitioner shall deposit the difference, together with any further sum which may be due on account of interest up to the date of such deposit. If the petitioner makes such deposit within such period or such further period not exceeding thirty days as the Collector may fix, the Collector shall make an order as laid down in clause (*b*) of section 7.

(*2*) If the petitioner fails to make such deposit within the period fixed, the Collector shall dismiss the petition.

Saving of suits to establish rights.

13. (*1*) Any party aggrieved by an order made under section 7, 8, 9, 10, 11 or 12 may institute a suit to establish his rights in respect of the mortgage, but, subject to the result of such suit, if any, the order shall be conclusive.

Setting aside *ex-parte* orders or orders of dismissal.

(*2*) Notwithstanding anything contained in sub-section (*1*) a mortgagee against whom an *ex-parte* order under section 8 has been made or a petitioner whose petition has been dismissed in default under section 7 may apply to the Collector to have such order or dismissal set aside, and the Collector may, in his discretion, set aside such order or dismissal on such terms as to costs or otherwise as he may deem fit:

Provided that the order or dismissal shall not be set aside unless notice of the application has been served on the opposite party

14. The dismissal of a petition under this Regulation shall bar any further petition under this Regulation by the same petitioner or his representative in respect of the same mortgage

No second petition

15. If the Collector dismisses a petition under this Regulation, he shall order that the sum deposited by the petitioner be returned to him

Return of deposit

16 No sum deposited with the Collector by a petitioner under the provisions of this Regulation shall be attached by any Court or Revenue-officer

Deposit not to be attached

17. (*1*) When the petitioner has deposited with the Collector the sum declared by the petitioner to be due on the mortgage, and such sum is accepted by the mortgagee, or is found by the Collector to be the sum actually due, interest on the mortgage shall cease from the date of the deposit

Cessation of interest

(*2*) Where the Collector finds that a further sum is due and the petitioner deposits such further sum, interest shall cease from the date of such further deposit

Provided that nothing in this section shall be deemed to deprive the mortgagee of his right to interest when there exists a contract that he shall be entitled to reasonable notice before payment or tender of the mortgage-money

Provided also that, where a suit is instituted under section 13, the Court may pass such order as to interest as it deems fit

18. The Chief Commissioner may—

Power to make rules and to appoint Revenue officers to exercise powers of Collector.

(*a*) make rules consistent with this Regulation for carrying out the purposes of this Regulation, and

(*b*) appoint any Revenue-officer not below the rank of an Extra Assistant Commissioner to exercise the powers of the Collector under this Regulation

APPENDIX.

ENACTMENTS DECLARED IN FORCE IN, OR EXTENDED TO, AJMER-MERWARA BY NOTIFICATION UNDER THE SCHEDULED DISTRICTS ACT, 1874[1].

[The Chief Commissionership of Ajmere and Merwara is a Scheduled District—*See* the Scheduled Districts Act, 1874[1] First Schedule, Part IX—and the Act was brought into force there by Notification No 169 J, dated the 10th October, 1887 (published in the Gazette of India, 1877, Part I, page 605), which runs as follows —' In exercise of the power conferred by section 3 of Act XIV of 1874[1] (the Scheduled Districts Act), the Officiating Chief Commissioner of Ajmere and Merwara is pleased, with the previous sanction of the Governor General in Council, to declare that the said Act is in force in the Scheduled District of Ajmere and Merwara "]

Year.	No	Short title or Subject	Whether declared in force or extended	Notification.
		Acts of the Governor General in Council		
1839	XXXII[2]	The Interest Act, 1839	Declared in force	Notification No 105 (6) C C, dated the 18th October, 1928 [*See* Gazette of India, 1928, Pt II-A, p 344.]
1850	XII[2]	The Public Accountants' Defaults Act, 1850	Extended .	*The 21st June, 1878* *No 73 J* —In exercise of the power conferred by section 5 of Act XIV of 1874 (the Scheduled Districts Act), the Officiating Chief Commissioner of Ajmere and Merwara is pleased with the previous sanction of the Governor General in Council, to extend the Acts mentioned in the first column of the Schedule hereto annexed to the Scheduled District of Ajmere and Merwara — (Here follows the Schedule referred to, which contains, among other Acts, Act XII of 1850). [*See* Gazette of India, 1878, Pt I, p 380, Rajputana Official Gazette, 1878, p. 144]
"	XVIII[2]	The Judicial Officers' Protection Act, 1850	Ditto .	[*See* Notification No 73-J., dated the 21st June, 1878, *supra*]
"	XXXIV[2]	The State Prisoners Act, 1850	Ditto .	Ditto.

[1] General Acts, Vol. II.
[2] General Acts, Vol. I.

Year.	No.	Short title or Subject.	Whether declared in force or extended.	Notification.
		Acts of the Governor General in Council—contd.		
1850	XXXVIII	The Public Servants (Inquiries) Act, 1850.	Declared in force.	Notification No. 105 (6) C.-C., dated the 18th October. 1928. [*See* Gazette of India, 1928, Pt. II-A., p. 344.]
1852	*XXX*[1]	*The Indian Naturalization Act, 1852.*	*Extended* . .	*Notification No. 1313-C.—833-II, dated the 31st August, 1925.* [See *Gazette of India, 1925, Pt. II-A., p. 280.*]
1855	XIII[2]	The Indian Fatal Accidents Act, 1855.	Declared in force.	Notification No. 105 (6) C.-C., dated the 18th October, 1928. [*See* Gazette of India, 1928, Pt. II-A., p. 344.]
,,	XXIV[2]	The Penal Servitude Act, 1855.	Ditto .	Ditto.
1856	XV[2]	The Hindu Widows' Re-marriage Act, 1856.	Ditto .	Ditto.
1858	III[2]	The State Prisoners Act, 1858.	Extended .	*No. 132-7, dated 9th February, 1887.*—In continuation of Notification No. 73-J., dated the 21st June, 1878, and in exercise of the power conferred by section 5 of the Scheduled Districts Act, 1874, the Chief Commissioner of Ajmere and Merwara is pleased, with the previous sanction of the Governor General in Council, to extend Act III of 1858 (*an Act to amend the law relating to the arrest and detention of State prisoners*) to the Scheduled District of Ajmer and Merwara. [*See* Gazette of India, 1887, Pt. II. p. 78.]
,,	*XXXV*[3]	*The Lunacy (District Courts) Act, 1858.*	*Ditto* . .	[See *Notification No. 73-J., dated the 21st June, 1878,* supra.]
,,	*XXXVI*[3]	*The Indian Lunatic Asylums Act, 1858.*	*Ditto* .	*Ditto.*

[1] Act XXX of 1852 has been repealed by the Indian Naturalization Act, 1926 (VII of 1926), General Acts, Vol. VIII, which applies to Ajmer-Merwara.

[2] General Acts, Vol. I.

[3] Acts XXXV and XXXVI of 1858 have been repealed by the Indian Lunacy Act, 1912 (IV of 1912), which applies to Ajmer-Merwara—*see* General Acts, Vol. V.

Year.	No	Short title or Subject	Whether declared in force or extended	Notification
		Acts of the Governor General in Council—contd		
1858	XL[1]	*Minors*	*Extended* .	*Notification No 5 I-J, dated the 7th January, 1881* [*Gazette of India, 1881, Pt I, p 11*]
1860	XXI[2]	The Societies Registration Act, 1860	Ditto	[*See* Notification No 73-J, dated the 21st June, 1878, *supra*]
,,	XXVII[3]	*Collection of Debts on Succession*	*Ditto*	*Notification No 171-J, dated the 19th October 1877* [See *Gazette of India, 1877, Pt I p 605 Rajputana Official Gazette, 1877, p 237*]
1863	XX	The Religious Endowments Act, 1863	Ditto	Ditto
1864	III[2]	The Foreigners Act, 1864	Declared in force	Notification No 105 (6) C C, dated the 18th October, 1928 [*See* Gazette of India, 1928, Pt II A, p 344]
1865	III[2]	The Carriers Act, 1865	Extended .	[*See* Notification No 171-J, dated the 19th October, 1877, *supra*]
,,	XI[4]	*Mufassal Small Cause Courts (except the sections repealed by Act X of 1877)*	*Ditto* .	[See *Gazette of India, 1877, Pt I, p 605, Rajputana Official Gazette, 1877, p 237*]
,,	XV[2]	The Parsi Marriage and Divorce Act, 1865	Ditto .	Notification No 1111, dated the 28th July, 1909 [*See* Gazette of India, 1909, Pt II, p 1314]
,,	XXI[4]	*The Parsi Intestate Succession Act, 1865*	*Declared in force*	*Notification No 72-J, dated the 21st June, 1878* [See *Gazette of India 1878, Pt I, p 380, Rajputana Official Gazette, 1878, p 144*]
1866	X[4]	*The Indian Companies Act 1866*	*Extended* .	[See *Notification No 73-J, dated the 21st June, 1878, supra*]

[1] Act XL of 1858 was repealed by the Guardians and Wards Act, 1890 (VIII of 1890) General Acts, Vol III, which applies to Ajmer Merwara

[2] General Acts, Vol I

[3] Act XXVII of 1860 was repealed by the Succession Certificate Act, 1889 (VII of 1889), which applies to Ajmer Merwara.

[4] —General Acts, Vol V.

Year.	No.	Short title or Subject.	Whether declared in force or extended.	Notification.
		Acts of the Governor General in Council—contd.		
1866	*XXI*[1]	The Native Converts' Marriage Dissolution Act, 1866.	Declared in force.	Notification No. 105 (6) C.-C., dated the 18th October, 1928. [*See* Gazette of India, 1928, Pt. II-A., p. 344.]
1867	III	The Public Gambling Act, 1867, as amended by the U. P. Public Gambling Act, 1917 (U. P. Act I of 1917). and the U. P. Public Gambling (Amendment) Act, 1925 (I of 1925).	Extended (with modification).	No. 212-309-C.C.-30, dated the 19th March, 1931. In exercise of the powers conferred by section 5 of the Scheduled Districts Act, 1874 XIV of 1874), as subsequently amended by the Devolution (Act, 1920 (XXXVIII of 1920), and in supersession of this Administration's Notifications Nos. 1478 and 1-1406, dated respectively the 24th September 1925 and the 4th January, 1926, the Chief Commissioner is pleased to extend the Public Gambling Act, 1867 (III of 1867), as amended by the United Provinces Gambling Act, 1917 (I of 1917) and the United Provinces Public Gambling (Amendment) Act, 1925 (I of 1925), to the District of Ajmer-Merwara with the modification that the term "Chief Commissioner," as defined in section 1 of the said Act, shall mean the "Chief Commissioner, Ajmer-Merwara." [*See* Gazette of India, 1931, Pt. II-A., p. 125.]
"	XXV	The Press and Registration of Books Act, 1867.	Declared in force.	Notification No. 105 (6) C.-C., dated the 18th October, 1928. [*See* Gazette of India, 1928, Pt. II-A., p. 344.]
1869	*XV*[2]	*The Prisoners' Testimony Act, 1869.*	*Extended* . .	[See *Notification No. 73-J., dated the 21st June, 1878,* supra.]
1870	*XXIII*[3]	*The Indian Coinage Act, 1870.*	*Declared in force.*	[See *Notification No. 72-J., dated the 21st June, 1878,* supra.]
1871	*XXVII*[4]	*The Criminal Tribes Act, 1871.*	*Extended* . .	*Notification No. 171-J., dated the 19th October 1877. [Gazette of India, 1877, Pt. I, p. 605; Rajputana Official Gazette, 1877, p. 237.]*

[1] General Acts, Vol. I.
[2] Act XV of 1869 was repealed by the Prisoners Act, 1900 (III of 1900), which applies to Ajmer-Merwara—*see* General Acts, Vol. IV.
[3] Act XXIII of 1870 was repealed by the Indian Coinage Act, 1906 (III of 1906), which applies to Ajmer-Merwara—*see* General Acts, Vol. IV.
[4] *See* now the Criminal Tribes Act, 1924 (VI of 1924), which applies to Ajmer-Merwara—*see* General Acts, Vol. VIII.

Year.	No.	Short title or Subject.	Whether declared in force or extended.	Notification
		Acts of the Governor General in Council—contd.		
1873	XV[1]	*The N. W. P. and Oudh Municipalities Act, 1873.*	*Extended*	*Notification No 171-J., dated the 19th October 1877. [Gazette of India, 1877, Pt. I, p. 605, Rajputana Official Gazette, 1877, p. 237.]*
1875	XV[2]	The Punjab Laws Amendment Act, 1875	Ditto (with the necessary verbal alteration for application to Ajmer Merwara instead of to the Punjab)	Ditto
1877	I[3]	The Specific Relief Act, 1877	Extended .	*The 13th October, 1897.* *No. 7*.—In exercise of the power conferred by section 5 of the Scheduled Districts Act, 1874 (XIV of 1874), and with the previous sanction of the Governor General in Council, the Chief Commissioner is pleased to extend the following enactments to the Scheduled District of Ajmer Merwara:— The Specific Relief Act, 1877 (I of 1877) The Indian Easements Act, 1882 (V of 1882) [*See* Gazette of India, 1897, Pt. II, p. 1415.]
"	X[4]	*Code of Civil Procedure (except sections 1 and 3.)*	*Ditto* . .	[See *Notification No. 171-J., dated the 19th October, 1877*, supra.]
1879	XII[5]	*Amending Code of Civil Procedure, etc. (except so much as amends the Indian Registration and Limitation Acts, 1877)*	*Ditto* . .	*Notification No. 212 I.-J., dated the 30th December, 1880.* [See *Gazette of India, 1881, Pt. I, p. 2.*]

[1] Act XV of 1873 was repealed in Ajmer Merwara by the Ajmere Municipalities Regulation, 1886 (V of 1886), section 17, which has in turn been repealed by the Ajmer Merwara Municipalities Regulation, 1925 (VI of 1925), *supra*.

[2] *Supra*

[3] General Acts, Vol II.

[4] *See* now the Code of Civil Procedure, 1908 (Act V of 1908), which has been extended to Ajmer Merwara—*see* Appendix, *infra*

[5] Act XII of 1879, so far as it amended the Code of Civil Procedure, was repealed by Act XIV of 1882. The residue was repealed by Acts IX and XVI of 1908.

Year.	No.	Short title or Subject.	Whether declared in force or extended.	Notification.
		Acts of the Governor General in Council—contd.		
1882	V[1]	The Indian Easements Act, 1882.	Extended . .	[*See* Notification No. 7, dated the 13th October, 1897, against Act I of 1877, *supra*.
,,	*XIV*[2]	*Code of Civil Procedure (except sections 1 and 3).*	*Ditto* . .	*Notification No. 289 I., dated the 28th July 1882.* [See *Gazette of India, 1882, Pt. I, p. 289.*]
1883	XIX[3]	The Land Improvement Loans Act, 1883.	Ditto . .	*The 20th March, 1886.* *No. 273—115-II.*—In exercise of the powers conferred by section 5, Act XIV of 1874 (the Scheduled Districts Act), the Chief Commissioner of Ajmer-Merwara is pleased, with the previous sanction of the Governor General in Council, to extend Act XIX of 1883 (the Land Improvement Loans Act) to the Scheduled District of Ajmer-Merwara, with effect from the 1st of January, 1886. [*See* Gazette of India, 1886, Pt. II, p. 157.]
1887	XVII[1]	The Punjab Land Revenue Act, 1887 (sections 33 to 40, 44 to 46 and 98).	Ditto . .	*The 16th July 1895.* *No. 801—562 III.*—The Chief Commissioner of Ajmere and Merwara is pleased, with the previous sanction of the Governor General in Council, to extend to the Chief Commissionership of Ajmere and Merwara, under sections 5 and 5A of the Scheduled Districts Act, 1874, the provisions of sections 33 to 40 (both inclusive), and sections 44 to 46 (both inclusive) and section 98 of the Punjab Land Revenue Act, XVII of 1887, subject to the modifications appearing in and in relation to these sections as set forth in the schedule to this notification. (Here follows the schedule which is reproduced on p. 101 *et. seq.*, above in Pt. II.) [*See* Gazette of India, 1895, Pt. II, p. 917.]

[1] *Supra.*
[2] *See* now the Code of Civil Procedure, 1908 (Act V of 1908), which has been extended to Ajmer-Merwara—*see* Appendix, *infra.*
[3] General Acts, Vol. II.

Year.	No.	Short title or Subject.	Whether declared in force or extended.	Notification.
		Acts of the Governor General in Council—contd.		
1888	VII[1]	*Amending Code of Civil Procedure (except sections 65 and 66).*	Extended . .	Notification No. [illegible], dated the 22nd [illegible]. [*See Gazette of India*, [illegible], Pt. II, p. [illegible].]
„	X[2]	*The Presidency Small Cause Courts Law Amendment Act, 1888 (sections 1 and 3).*	*Ditto* . .	Ditto.
1907	III[3]	*The Provincial Insolvency Act, 1907.*	*Ditto* . .	*Notification No. 1104, dated the 6th August, 190[illegible].* [*See Gazette of India*, 1909, Pt. II, p. 1314.]
1908	V	The Code of Civil Procedure, 1908 (except sections 1 and 155 to 158 already in force).	Ditto .	Notification No. 3[illegible], dated the 10th March, 1909. [*See Gazette of India*, 1909, Pt. II, p. 480.]
1920	V	The Provincial Insolvency Act, 1920.	Ditto . .	Notification No. 1072, dated the 6th October, 1921. [*See Gazette of India*, 1921, Part II, p. 1323.]
		Acts of the Indian Legislature.		
1925	XX[4]	The Code of Civil Procedure (Amendment) Act, 1925.	Extended . .	*Notification No. [illegible], dated the 27th August, 1926.* [*See Gazette of India*, 1926, Pt. II-A, p. 224.]
„	XXI[4]	The Religious Endowments (Amendment) Act, 1925.	Ditto . .	*Ditto.*

[1] Act VII of 1888 has been repealed by Acts V, IX and [illegible].
[2] Act X of 1888 was repealed by Act V of 1908 which has been [illegible] as [illegible].
[3] Act III of 1907 has been repealed by the Provincial Insolvency Act, [illegible]. General Acts, Vol. VI.
[4] General Acts, Vol. VIII.

Year.	No.	Short title or Subject.	Whether declared in force or extended.	Notification.
		Acts of the Indian Legislature—contd.		
1925	XXXVII[1]	The Repealing and Amending Act, 1925 (so far as it relates to the Indian Trusts Act and the Amending Act of the Code of Civil Procedure).	Extended . .	Notification No. 65-C-1169, dated the 25th August 1926. [*See* Gazette of India, 1926, Pt. II-A., p. 324.]
1926	I[1]	The Small Cause Courts (Attachment of Immoveable Property) Act, 1926 (so far as it relates to the Civil Procedure Code, Act V of 1908).	Ditto . .	Ditto.
,,	VI[1]	The Code of Civil Procedure (Amendment) Act, 1926.	Ditto . .	Ditto.
,,	IX[1]	The Insolvency (Amendment) Act, 1926.	Ditto . .	Ditto.
,,	XXII[1]	The Code of Civil Procedure (Second Amendment) Act, 1926.	Ditto . .	Ditto.
		Acts of the Bombay Legislative Council.		
924	XIII	The Bombay Children Act, 1924.	Extended with modifications.	*The 29th May, 1926.* *No. 1051.*—In exercise of the powers conferred on him by sections 5 and 5-A of the Scheduled Districts Act, 1874, XIV of 1874, as amended by the Devolution Act, 1920 (XXXVIII of 1920), the Hon'ble the Chief Commissioner, Ajmer-Merwara, is pleased to extend to the District of Ajmer-Merwara, the provisions of the Bombay Children Act, 1924[2] (XIII of 1924), subject to the modifications set forth below:— In section 1 (2) *For* the words "Presidency of Bombay" *read* "District of Ajmer-Merwara."

[1] General Acts, Vol. VIII.
[2] The Act was brought into force from 1st June, 1926—*see* Gazette of India, 1926, Pt. II-A., p. 211.

Year.	No.	Short title or Subject.	Whether declared in force or extended.	Notification.
		Acts of the Bombay Legislative Council—contd		
1924	XIII	The Bombay Children Act, 1924—*contd*	Extended with modifications—*contd.*	In section 1, sub section (3) — *For* the words "Government" and "Bombay Government Gazette' *read* "the Hon'ble the Chief Commissioner, Ajmer Merwara" and ' Gazette of India " *For* section 2 *read*— The Act shall come into operation on such date as the Hon'ble the Chief Commissioner may by notification in the Gazette of India appoint Section 4 to be omitted Section 5 (*e*) to be omitted and *for* the words ' (*a*) High Court *read* '(*a*) the Hon ble the Chief Commissioner, Ajmer-Merwara ' Section 6—last eleven words of clause (1) of this section to be omitted Part III—sections 9 to 17 to be omitted Throughout the Act *for* the words 'Governor in Council' wherever they occur, *read* ' the Hon'ble the Chief Commissioner, Ajmer Merwara " [*See* Gazette of India, 1926, Pt II A, p 21?]
		Acts of the U P. Legislative Council		
1921	II	The Intermediate Education Act, 1921	Extended with modifications	*The 14th December, 1922* *No 3152-C 1511*—In exercise of the powers conferred by sections 5 and 5-A of the Scheduled Districts Act, 1874 (XIV of 1874) the Chief Commissioner of Ajmer Merwara is pleased to extend the Act of Legislature of the United Provinces of Agra and Oudh, specified in the

Year.	No.	Short title or subject.	Whether declared in force or extended.	Notification.
		Acts of the U. P. Legislative Council—contd.		
1921	II	The Intermediate Education Act, 1921—*contd.*	Extended with modifications—*contd.*	second column of the schedule[1] hereto annexed, to the Chief Commissionership of Ajmer-Merwara to the extent specified in the third column of the said schedule and subject to the modifications set forth in the fourth column thereof.
		Acts of the Punjab Legislative Council.		
1922	VII	The Punjab Court Fees (Amendment) Act, 1922.	Extended *mutatis mutandis.*	Notification No. 776-1535, dated the 20th May, 1924. [See Gazette of India, 1924, Pt. II-A.. p. 185.]
1926	I	The Punjab Court Fees (Amendment) Act, 1926.	Extended .	Notification No. 92-C. C./28, dated the 30th August, 1928. [See Gazette of India, 1928, Pt. II-A., p. 283.]
"	VI	The Punjab Court Fees (Second Amendment) Act, 1926.	Ditto . .	Ditto.

[1]*Schedule.*

1	2	3	4
Number and year.	Short title.	Extent of application.	Modifications.
United Provinces Act II of 1921.	The Intermediate Education Act, 1921.	Sub-section (1) of section 1; clauses (*a*), (*b*) (*d*) and (*e*) of section 2; sub-sections (1) to (9) and sub-section (12) of section 7, and section 19.	(*a*) In section 2 (*a*) "Board" shall mean "the Board of High School and Intermediate Education constituted by an Act of the Legislature of the United Provinces of Agra and Oudh, known as the Intermediate Education Act, 1921." (*b*) In section 2 (*e*) "Regulations" shall mean "Regulations made by the Board under the said Act and having effect in the United Provinces of Agra and Oudh." [See Gazette of India, 1922, Pt. II, p. 1810.]

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